

A
COLLECTION

Of the most

INTERESTING

TRACTS,

Lately published in *England* and *America*,

On the SUBJECTS of

TAXING the *American* Colonies,

AND

REGULATING their TRADE.

In TWO VOLUMES.

LONDON:

Printed for J. ALMON, opposite Burlington-House,
in Piccadilly.

M.DCC.LXVI.

The Privileges of the Island of Jamaica.

in the House of Commons.
with a List of those who voted against it
Two Protocols of the Lords against that Repeal.

At.
in the Repeal of the American Stamp
Short History of the Conduct of the Ministry

and America.
Application of political Rights to England
Rights of Parliament vindicated.

Representation.
account of a Conference on the Subject of
Late Occurrences in America considered.

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Considerations on the Propriety of Taxing
Our Rights of the Colonies.

D
land Charters.
DUMMER'S Defence of the New Eng-

TWO VOLUMES
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C O N T E N T S

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T W O V O L U M E S.

*D*UMMER's Defence of the New England Charters.

Otis's Rights of the Colonies.

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The Privileges of the Island of Jamaica.

SECRET

THE

TWO VOLUMES.

1. 1900-1901

AN
ACCOUNT
OF A LATE
CONFERENCE
ON THE
OCCURRENCES in AMERICA.

In a LETTER to a FRIEND.



L O N D O N :

Printed for J. ALMON, opposite Burlington House, in
Piccadilly. M.DCC.LXVI.

[Price One Shilling.]

ACCOUNT

OF A

CONFERENCE

OF THE

GOVERNMENT OF AMERICA

IN A LETTER TO THE



LONDON:
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1871.



A

LETTER, &c.

DEAR SIR,

I WAS down at my friend ——'s villa spending the Christmas holidays, when I was favoured with your letter, requiring me to send you an account of the most prevailing opinions concerning the *occurrences in America*, as they have been happily called ;—and it fell out, fortunately enough for my purpose, that there were four or five gentlemen in our company, who, having brought down all the late American prints, scarcely talked of any thing else ; — whereupon, as I found they were all men of acute understandings, tho' of different opinions on the subject, I contrived without much difficulty to cast them

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into a conversation, or argumentative discussion of the several points in dispute; which having set down, as well as my memory would allow me, I here give you, as the best answer I can make to your letter.

The principal speakers were Mr. LEICESTER, Mr. CORNISH, Mr. FERGUS, Mr. CONNER, and Mr. PENN; and I set them on the argument, by observing to them, as they seemed all to have well considered the matter that gave rise to these occurrences, and each to be the master thereof in his own way, that it would be highly entertaining, and perhaps also useful to some of us, if they would communicate and compare their thoughts on the subject at large;—when Mr. Leicester began thus; I can pass an hour or two, in such a conversation, with a great deal of pleasure, though I must observe, that for the most part, there's no end answered, in discoursing vaguely, as people ordinarily do, on points of this nature, without having any fixed principles; wherein being agreed, they may come to some reasonable conclusions;

sions;—for instance, and to the purpose now under our consideration,—what is the spirit of the British constitution, in the business of taxing?—is it not, that no free born subject shall be taxed, otherwise than by his own consent personally, or by his representative, or by a majority of his fellow citizens, or their representatives?

PENN.

Certainly, we may all admit this as a fundamental principle of the constitution.

A L L.

Agreed!

CORNISH.

Neither do we ever vary from this principle; at least, not since the reign of the unfortunate Prince who paid for the contrary experiment with his head;—but I understand that the members of the B—sh P—t are the representatives of all the B—sh people, wherever residing.

FERGUS.

Aye, surely.

PENN.

Pardon me, gentlemen, if I differ from you, and endeavour to define this a little

more nicely.—The members of the B—th P—t can only be the representatives of those who have the power of chusing them, and that power is confined to those only who have property and residence within the island. Wherefore, according to this definition, (which is no other than a description of what we all know to be the plain matter of fact,) none but the *proprietors* of this island alone have representatives in the B— P—.

CONNOR.

I am intirely of Mr. Penn's opinion, and by considering his definition together with the fundamental laid down by Mr. Leicester, it seems clear to me, that, though in a general sense, we are all fellow subjects, whether our properties lie in Britain, Ireland, or America, yet are we not fellow citizens with respect to parliamentary rights, no more than a citizen of London, is of course a citizen of York, that is, his being a freeman of one of those cities does not qualify him to serve an office in the other; he, whose landed property lies in Britain, is a citizen of that island, and if he has likewise landed property in a province of America,

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America, he may be a citizen also there, but the one does not, *ipso facto*, intitle him to the other.

CORNISH.

From what you say, it should follow, that it is *property* and not *people* that are *represented*.

CONNOR.

That seems manifestly to be the case.

FERGUS.

What think ye, then, of the house of P—rs, some serve in their own persons, others are represented, and yet we cannot say, that the qualification of an elector arises from his property !

LEICESTER.

Let us not embarrass our present discussion with that part of the constitution ; we'll first consider what relates to commoners only, and treat that part of the subject at another time.

CORNISH.

Well then, I say, there is property, to a very great amount, in this island, that has no representative in P—t, no more than has the property of Ireland, or America.

LEI-

LEICESTER.

If you mean *copy or leasehold lands*, tho' such distinctions are useless, and may be considered as a blemish in our system at this time of day; yet you know it may be answered, that such lands are already represented by the lords of the manors who possess the freehold of them;—or if you mean such property as may be in the hands of women, infants, ideots, or paupers below the legal standard of qualification.—

CORNISH.

No, I mean none of those, but will explain myself, and save you the trouble of guessing.—I say, then, that the rents which particulars draw from the *public funds* alone, are sufficient, as to their amount, to qualify thirty candidates for every seat in P—t; but as the revenue from the funds is not that sort of property that can legally qualify either the elector or the candidate, it will be found on calculation, that there are about 450,000 people maintained thereby, who, though they may be resident within the island, where this property is supposed to exist, yet have, in consequence thereof,

no

no representative either in Great-Britain, or any where else.

LEICESTER.

What you say, is certainly true, so far as regards their property in the funds, which I consider as a very great irregularity and an inconvenience in our system; and I look upon these 450,000 stock pensioners, as so many idle by-standers; to maintain whom, the land labourers and manufacturers must work so much the harder, or must put themselves upon shorter diet, in order to spare somewhat for these idle men of imaginary property;---whence arises this outcry of dearness of provisions, and high price of labour: But as the funds are a very new and singular kind of property, very different indeed from our colonies, these being the off-spring of frugality and industry, and those of war and dissipation, I suppose, we have not had time to understand the whole of their nature and effect in our constitution, so as to make them thoroughly suitable therewith.

PENN.

PENN.

Yet, thus far, the administration have considered justly in regard to the proprietors of the funds, namely, that since that part of British property has no representative in P—t, they exempt it from paying any taxes whatever.

CORNISH.

Well said, Mr. Penn, the administration are certainly much obliged to you, for finding so equitable a reason for that policy, which, I'll venture to say, they never thought of themselves.

CONNOR.

There's no doubt, Mr. Cornish, but your remark here is historically just, the exemption from taxes was calculated as an invitation extraordinary to foreigners, as well as natives; but since we must allow that Mr. Penn's reason is an equitable one, we may as well indulge him in supposing that it did operate something thereto; for, I am of opinion, that if the political one had not already caused the end to be obtained, the equitable one would have forced its way at last.

L E I-

LEICESTER.

I incline much to your opinion, Mr. Connor ;—the Roman history furnishes us with an instance not very wide of the mark :—It is well known now to all the world, that notwithstanding the great increase of dominion to that republic, their selfish and contracted views prevented them from bestowing the freedom of their city, on even their most antient and faithful allies ; vainly hoping that poised on the same narrow basis on which their government had stood in the infancy of the republic, confined to the inhabitants of a small circle round Rome, they might still continue to lord it over their distant and extended provinces. The first effect of which selfish policy, was, a civil war with their Italian allies and *colonies* (called the social war,) to whom in the end, and after a great deal of blood spilled, they were obliged to grant with an ill grace, what, a *sounder policy* would have taught them to offer before it was demanded :—the second was, that continuing still under the same error of affecting to keep all the world under the government of a *small se-*

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nate chosen from a territory very narrow and disproportioned to the extent of their dominions, *posts, and offices* of power and profit become more numerous than the *senators* themselves; the wealth of the world centering in so few hands, soon put an end to all order, and a daring fervant overturned this narrow-bottomed republic by the event of a single battle.

CORNISH.

What different pictures may be drawn from the same original! You seem to mark out in this bold sketch, that the Romans delayed too long to make their allies and *colonists* citizens of Rome; and Mr. Montesquiou, on the other hand, assigns their granting that privilege at all, to such vast numbers, as one of the chief causes of their ruin.

PENN.

I can very well see, that Mr. Leicester had one eye on his original, the Roman story, and the other on a subject much nearer his heart;—neither the Romans nor Mr. Montesquiou, it is probable, thought of, or considered fully, the happy
ex-

expedient so well known in our constitution, and which, without doubt, Mr. Leicester had in his mind, I mean that of a people exercising their power by representatives; for had the Romans known this most excellent contrivance, (or, if Mr. Montesquieu had fully considered it, I think he would have found out that) there was, even in Cæsar's time, both virtue and good sense enough remaining to have adopted it, and by that medium to have extended their citizenship and form of government to all their dominions.—For, certainly they ruined their government by the abuse of two extremes, a *senate* too small, considering the extent of their power and their duration, as they sat for life;—and an assembly of commons (with power of deliberating, haranguing and rashly enacting) whose numbers were so excessive that it was almost impossible to meet without riot and confusion.

FERGUS.

I do not see that this method would altogether prevent that confusion; for, if the representatives be increased in pro-

portion to the accession of dominion, their numbers may rise so high as to make the maintenance of order utterly impossible.

PENN.

Good orders will do a great deal; we know that the great council at Venice consists now of about a thousand members, it has been heretofore above three times as many, they both deliberate and vote, and they never run into confusion.

CONNOR.

But, supposing the danger of confusion out of the question, how could such a matter be effected, how would it be possible to settle such a proportion of *representatives* from the *provinces*, as should be thought on all hands to be neither too much, nor too little?

FERGUS.

This would be a difficulty indeed, for, there are many people who do not think that *colonies* or *conquered countries* have any right to expect such a favour at all.

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CONNOR.

Such people as those we should refer to hear another chapter of Mr. Leicester's Roman history ; but in fact we have no body of people, properly speaking, under that circumstance ; for, admitting we have *conquered lands* in America, or elsewhere, if the conquered inhabitants conform strictly to the British tests of allegiance and religion, their children become free-born subjects to all intents and purposes, and may, by purchasing estates in the mother-country, become members of the legislature ; if they do not conform, they are treated as foreigners living under the protection of our laws, but incapable of enjoying posts, or exercising any legislative or executive power whatever.— On the other hand, when a native of the mother-country buys an estate in a conquered province, would it not be contrary to all reason to suppose, that he has, thereby, forfeited his native rights, and fallen into a degree of slavery ?

COR.

CORNISH.

No, no, we must not suppose that.—However, I do not see, that laying taxes on the Americans, similar to what we lay on ourselves, and regulating their trade so as it may not interfere with our own, can be considered as subjecting them to any thing like slavery.—For, when they left this country, it was for their own pleasure, on a prospect of private advantage; they did not put themselves under foreign protection, they continued still under ours; they left the legislative power, to which they were subject, here behind them, and here it has remained ever since, and here I hope it will ever remain without diminution.—For here lies the point, the right, the right, Sir; and if we give way now, there's an end of the dignity.—

FERGUS.

No! no, Mr. Cornish, I cannot join you there; for, in my opinion, neither an individual nor a community can derive any dignity, respect, or authority,
from

from obstinately adhering to a measure after it is discovered to be a wrong one ; —the wisest may be drawn into error by oversight, or through artful misrepresentation ; but it is the part of folly or knavery only, to continue wilfully therein, on any pretence whatever, after the discovery is made ; —therefore I hope we shall make use of no such arguments here among ourselves, though I must own, with concern, I have heard them in the mouths of men of some figure. I am more afraid of losing, than in hopes of gaining, by pushing punctilios too far ; and am persuaded that the supremacy of the pope would have lasted entire to this day, or that episcopacy would never have been banished from Scotland, if the hot-heads of those times had not urged their rights with too high a hand.

LEICESTER.

I entirely agree with you, Mr. Fergus, and therefore let us consider, of what use can it be to demonstrate a legal right (by the help of a parcel of absurd *fictions*) if,
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after all we should want power to support that right?—Or, what wise man would think of exerting his power, if the exertion was more likely to hurt than to avail him?—I may assert, that I have a natural right to cut off one of my own limbs; and I may prove, that, taking a hatchet in my right hand, I have power to chop off the left;—but what benefit shall I derive from this manly exertion? —Our American provinces, as far as they are peopled, became so, from the freedom that adventurers found they could enjoy there, and from the advantages which that freedom afforded to commerce;—if that freedom and those advantages were taken away, by restraints and taxations laid on, against the will of the inhabitants, that is, at the pleasure of an external power, there can be no doubt, that such an operation would exactly undo all that the contrary method had been doing; and that the swarms of people which fled thither, from the calamities of Britain, during the civil wars, and afterwards from Ireland, by reason of the restraints laid on their

their manufactures and commerce, I say, it could not be doubted, but those swarms of people (or their descendants) would search for some new assylum, and abandon the lands once more to their original savages.

CORNISH.

Do you think, then, if we were to enforce so just a law, as requiring a moderate aid from these people, that their high-spiritedness would carry them so far, as to abandon their estates and such immense property as some of them have got there, and to expose themselves to all the hardships and poverty of new adventurers?

LEICESTER.

I am clearly of that opinion, but will not take up our time now, in saying any thing farther in support of it, because I do not see how such a law could be enforced:—for where people have immense property, they must of course have immense power; and, with such a people, according to the principles of our constitution,

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ton, nothing can be done, but by their own consent, that is, if we want their aid, or, in other words, if we want them to bear some part of our burdens, we must allow them also a share in our privileges ; for, I can hardly think there was ever any body visionary enough to propose, that, in imitation of the Great Turk, we should send a basha, with a fleet and army, to collect the tribute of the empire.

CONNOR.

No, surely ;—that's an absurdity so glaring, that it needs only to be mentioned, the confutation arises instantly in the mind of the hearer.—But, as I was saying, Mr. Penn, (a little while ago) supposing the number of representatives to be raised to a thousand, how could that number be allotted and proportioned?

PENN.

Nothing more easy.—For why may we not imitate what we see successfully practised every day by private persons, who associate themselves to carry on projects of trade or other lucrative adventures, which require the advance and risk of a considerable

derable capital, and the exercise of skill and judgment in the conduct thereof.— They usually divide the sum total of the required capital into a certain number of parts or shares, to each of which parts they annex the right of one vote; the subscribers engage, according to their abilities or inclination; and he who buys the greatest number of shares, that is, he who runs the greatest risk, and pays the greatest part of the expence, has also the greatest number of votes in that community.

CORNISH.

My good Sir, do you mean that, by this fine project, we should open a door for five or six hundred Americans to come in and vote us out of our own house ?

LEICESTER.

I see no reason to apprehend that, unless we can suppose the Americans able and willing to pay five or six parts in ten of the public expence, that is, about five or six millions per annum;—for in that manner, if I understand Mr. Penn rightly, the desire, in any one part of the

state to over-rule the rest by an undue majority of votes or representatives, would be curbed by the excessive price they must pay for them.

PEN.

That is exactly my meaning.

LEICESTER.

And I think nothing can be more equitable.

CONNOR.

But however equitable and pleasing such a scheme may appear at first sight, might not some of our provincial politicians reject it on this account, “ That their narrow circumstances would only enable
“ them to pay such a sum as would intitle
“ them to have very few representatives or
“ votes, which, besides the smallness of
“ their number, might easily be practised
“ upon, if a minister was so inclined; and
“ whatever should happen afterwards, they
“ could make no just complaint, as they
“ would then have a legal representative.”

LEICESTER.

I can easily conceive, that a very obvious alteration in the mode of election, and
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the duration of their sitting limited to a short period, would make the practices of the minister, which you hint at, both impracticable and unprofitable.

CORNISH.

Very likely, Sir.—But I should fancy, that upon trial this obvious alteration of yours would go so much against the stomachs of some of our countrymen, that it could never be got down ; nay, would disgust them to that degree, that I think they would not suffer any plan to be brought before them that favoured of such a doctrine. For do we not consider our interest in boroughs as a part of our estates, and consequently any such alteration, as you intimate, would be an immediate violation of private property, which we can never consent to.

LEICESTER.

My dear Cornish, I know you have too much public virtue to insist on so mean an argument, which is no whit better than that offered by a gentleman some years ago, in opposition to the projectors of a new harbour on a dangerous part of the coast,

coast, namely, “ that their scheme would
 “ prejudice his rights as Lord of the Manor,
 “ by depriving him of the benefit of wrecks.”
 Representatives were undoubtedly intended,
 from their origin, to have been elected
 by the free votes of a free people ; and
 if by any unforeseen accidents they have
 fallen in particular places into a different
 channel, such alterations are an abuse of
 the original institution, and should be rectified
 as soon as they become manifest.

PENN.

Though I am of your opinion, Mr. Leicester, yet from what I have observed
 of mankind, both in the histories of times
 past and of our own, I have found that
 bodies politic are as squeamishly averse to
 medicines as the most froward children,
 nothing but the immediate fear of dissolution,
 or the force of bribes, can prevail
 with them to take any thing under the
 name of physic ; in short, there is nothing
 they seem to hate so much as to be mended.
 Therefore I should be for leaving
 every part of the old system as it now is,
 that every kingdom, or province, should
 continue

continue its parliament, assembly, or whatever other form of internal government it is possessed of, and defray all its own expences within itself ; and superadd, for the *union* and utility of the *whole*, a new *sovereign council*, consisting of deputies from each province of this great common-wealth, according to the plan before-mentioned ; that is, each province to send as many deputies as should correspond with a proportional share of the general public expence, which on all occasions they must pay. That *this* should be in the place of *that* commonly called the *privy council*, and should be always sitting to *advise the crown* in all the *public concerns* of the *common wealth*, of *peace* and *war*, and the sums of *money* proper to be raised. That the boards of *treasury*, *admiralty*, and *trade*, should be executed by *committees* of this council, and that the office of *Lord Constable* should be revived, but the execution thereof lodged in the hands of a *fourth committee*, which should have the same power over the *army*, as the Admiralty has over the *fleet*. That the *acts* of this great council, with the *King's assent*, shall be binding over

over the whole common-wealth ; but that they shall meddle with nothing that can be considered as the peculiar business of any one province in particular ; that after it has decreed what sums shall be raised, each province shall be left to find such *ways and means* for raising their quota as they shall think most proper for their own condition.

CONNOR.

But if the members of this great council are never to be dissolved, as I think you propose they should always be sitting, might not a practising minister soon be able to mould them to his humour?

PENN.

Sir, though I say they should always be sitting (that is, there should be no dissolution, though they might have some recess by adjournments) it would not, however, be in the power of a minister to practice much upon them as I should contrive matters ; for after the first year, the several provinces should be obliged to recall half their number, and send new ones in their places, and every year following to do

do the same thing ; so that every year one half of the council would be new men, and all those who went out should be incapable of being re-elected for the space of two years ensuing.

CONNOR.

Well, but might not something be done with the members of the four great committees ? for two years (the time which each member may continue in the council) would be long enough to admit of practices.

PENN.

That should be provided against in this manner. Let us suppose, that each of these four committees consisted of six members, to be chosen by ballot in the Venetian manner, that each committee should, by the same method, chuse a chairman, who should have power of first Lord, or first Commissioner, in the manner of the present boards, for the space of one month, at the expiration whereof he should leave the committee, and be incapable of being re-elected therein for twelve months ensuing. His place as a committee

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man should be supplied by ballot from and by the great council, and the vacancy of first Lord, or chairman, filled up in like manner by the committee, and so on *toties quoties*.—And by these means, I think, very little room would be left for practices,

CONNOR.

Would you give this great council power of impeachment and attainder ?

PENN.

Certainly, in all matters that concerned their own body, or the general welfare, or that could not be determined properly by any one province, they should have full parliamentary power.

FERGUS.

I observe you draw a good deal from the Venetian model ; but is it not notorious, that their government is particularly deficient in the very point which we seem to want, namely, the government of distant provinces, they having lost most part of their dominions on the *Terra Firma*, and their distant islands ?

P E N,

PENN.

I have only imitated some part of what I think they are most perfect in, and have avoided their only error, that is, their selfish principle; which, by confining the whole of their power and freedom to the nobles only, made it impossible for so small a number (being at most but 4000 families; and now not above 1000) to keep the numerous inhabitants of distant provinces (who were still masters of their own lands) in a slavish obedience to the laws of a government, in which, having no manner of share, they of course were neither interested to support, nor willing to obey, any longer than they were compelled *vi & armis*. Which violence, being directly contrary to the genius of trade; will always be found ruinous, if not impracticable, in a commercial state. Their great council never changes but as some die and as young men grow up, because in fact it takes in the whole community of freemen, the rest of the inhabitants being only like sojourning strangers as to their personal rights, and as slaves with respect

to their property. Whereas the great council here proposed, being only a representative of millions of freemen, is half changed every year, and totally every two years; and the intervals of two years, during which old members are kept out, gives opportunity for so many other able persons to step into the service of their country, that the idea of being governed by a cabal, or junto, can never arise to give jealousy or uneasiness to the most distant provinces, who, on the contrary, will all feel that they have an equitable share in the administration.

CORNISH.

But why do you propose to revive the office of Lord Constable, which, as we are told, was suppressed for having had too much power annexed to it to be trusted in the hand of any subject?

PENN.

That might have been the case when it was in the hands of an individual for life and hereditary; but when exercised by the joint judgment of six chosen men, the chairman

chairman having only a casting vote when necessary to prevent a stop in business by an equality of voices ; these six persons changing every month, and as soon as they quit their committee, immediately accountable for any mal administration ; I say, such a power, so lodged, runs very little risk of being abused. Besides, in truth, it is my opinion, that the constitution has never been perfect since the suppression of this office ; which, in order that the King should do no wrong, had provided officers in every branch of the executive, who were to act under his name, but were accountable in their own persons. The power of interested ministers working on the weakness of former princes, in pursuit of *reversionary grants*, converted many temporary offices into hereditary ones. Under such a change of order it would naturally happen sometimes, that the office would be disgraced by the hands it fell into ; such incongruities, I presume, made this office odious both to King and people, when unfortunately they saw no middle way to redress the evil, but suppressed it altogether. Had
their

there been a constable in the reign of Charles the first, that unhappy Prince could not have fallen into those errors which overturned the government and himself. But when the Prince can take the sword of war into his own hand, dismiss officers, and garble an army, as James the II^d did, I think the maxim, that the *King can do no wrong*, seems somewhat problematical, and the Prince thereby left occasionally exposed, in his own person, to the resentment of his people, for want of an immediate officer, on whom the blame of any misdoing might justly fall.

FERGUS.

Well, this is a very pretty scheme, Mr. Penn; but, I doubt, if you were to publish it, it would fare no better than many other ingenious projects of speculative men of the last age; all which sleep very quietly on the upper shelves of our modern virtuosi;—for the grand difficulty (and which, I fear, is insurmountable) is, how to persuade any man, or set of men, to part with any portion of power which they

NOW

now have, and think themselves strong enough to keep.

P E N.

Why, really Sir, I should think myself a very shallow politician indeed, if I had supposed men could be persuaded to part with any thing they liked, unless it were for a valuable consideration or when forced thereto by necessity. But as I am of opinion, that such positions do now and then occur in public affairs as necessarily require material alterations, I have maturely considered on this subject from a persuasion, that one time or other we shall be under a necessity of adopting such a system, or one very like it, to save us from something worse. But I repeat, that I am sure we shall never do it, till forced by necessity. If you'll allow me to relate to you what I know to have happened in a private family, you may judge from thence what might also fall out in a larger society under similar circumstances.

L E I.

We are all attentive ; pray go on.

PENN.

A country gentleman, master of a well conditioned manor of a thousand pounds a year, had half a score children portioned by settlement with about a thousand pounds a piece ; he prudently considered, though bred up in his youth to arms, that the most certain and effectual way of encreasing his fortune, and raising that of his children, was to apply himself to farming his own lands and bringing up his sons to merchandize ; by which means they soon became not only able to maintain themselves, by employing their little fortunes in merchant-venturing, but were also very useful to their father, in taking off all his products, even at his own price ; such was their filial affection towards him.---But unhappily the old gentleman increased not in virtue, as he did in the prosperity of his circumstances, on the contrary, like Noah when he took to drinking, he turned out a very debauched old fellow ; so that under the influence of his bad example and inattention to his affairs, his servants plundered him at home,
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and his steward, who went snacks with the lawyers, engaged him in broils and disputes with his neighbours, till he became so involved in debt, that he was no longer able to pay his labourers wages, and support his current expences; in which distress he conceived the rash project of drawing bills of exchange on his sons, payable at sight without farther advice.---The sons, who had always punctually paid their father for what they bought of his goods, and had never received of him any thing but their own fortunes, were alarmed at this innovation; and imputing it to the ill advice of his servants, who had so much the ascendant over him, that they (though his flesh and blood) were treated as strangers in the family house; I say, his sons, alarmed at this innovation, wrote an humble remonstrance to their father, beseeching him not to take such an arbitrary course with them.—But he, spirited up by his wicked servants, who kept him constantly drunk,—flung their letter back without reading, and would hear nothing from them;—swore in a great passion that as he was their father, whatever was their's, was his;—that if they refused to render quiet-

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ly what he demanded, he would send and take it by force, and punish them corporally for their disobedience.—At this, the sons, (who were affectionate and loved their parent, though they grieved for the weakness of his dotage,) were obliged to convince the old gentleman that they were no longer of an age to be treated as infants, seeing they were all married and had families of their own ;—they protested his bills, and refused to take any more of his wool or corn ; by which his distresses were doubled, for he had so quarrelled with all his neighbours that none of them cared to buy any thing of him.—However these last difficulties soon brought him to a better understanding, and instead of going to law with his sons, as his roguish steward advised, he was become sober enough to consider that the only issue of such a contest must be, either to ruin them or be ruined himself, either of which would be to lose the fruit he had been so long labouring for, that of establishing his family in wealth and prosperity ; wherefore, continuing still sober, he desired an interview with them, ingenuously acknowledged how he had been misled and abused by a pack of profligate servants,

vants, offered to take his sons into partnership with him, and desired they would assist him in reforming his house.—Which they, as they never wanted filial affection and a true sense of their duty, readily consented to; and they now are the family of the greatest *power and consideration in their country.*

At the end of this discourse we all sat staring at one another, nobody, I believe, knowing well what to say, when a servant came in to tell us, supper was on the table, which put an end to this conference.—And here also I beg leave to finish my letter; from your's &c.

Jan. 12, 166.

P O S T C R I P T.

I had almost forgot to tell you, that after supper, when some remarks were made on the foregoing subject, one of the company, who had taken no part in the argument before, observed, that Mr. Penn was not so very singular, nor new in his propositions as some of the gentlemen seemed to think, for, says he, toiling a ragged paper on the table, “ I have had that plan
“ in my pocket for several months past,

“ and the person from whom I received it,
 “ said it was handing about, and, as he
 “ supposed, was under some sort of pub-
 “ lic consideration.” With the gentle-
 man’s leave I borrowed it till the next day,
 and the following is a copy of it.

Scheme of representatives to a
 general parliament, proportioned to the
 probable numbers of people in each pro-
 vince, and to the certain sums to be con-
 tributed by each province to the general
 fund for public service, that is, for the
 support of *common government* in peace and
 war, (the particular support of each pro-
 vincial government being to be left to its
 own internal management) being after
 the rate of 10,000*l.* per annum, to be
 contributed by each province for every
 member sent by them; (when 52*l.* per
 annum was the parliamentary allow-
 ance for a seaman, viz. at 4*l.* per month.)
 The amount of the people supposed in
 each province, is put somewhat arbitrarily,
 in such even numbers as will divide by
 20,000; that being the number of people
 which, by this scheme, is supposed able
 to contribute a sum sufficient to intitle
 them to send one representative. But

moreover, as by this plan, property, rather than barely the numbers of people, gives the title of sending representatives, —each province having right to send one member for every 10,000 l. they contribute annually to the general fund; so the provinces where, by their situation, great part of their work is done by slaves, or where great numbers of the people are disqualified, by being Papists, may nevertheless find among them a sufficient number of qualified men to represent them, in proportion to their wealth and contributions.——All present taxes, duties, &c. to be repealed.

The probable number of persons in the whole dominion, at this time, is 16,760,000, which being divided by 20,000, will make 838 parts, or shares, in the whole; and supposing the several provinces able and willing to send, for each such share, one member, and in consideration thereof to contribute 10,000 l. to the general fund (more or less, according to the annual necessity) the whole would make a revenue of 8,380,000 l. which in detail may be stated in the following manner;

Names of Provinces.	Supposed No. of People	No. of Shares, which is also the No. of Re- presentatives.	Sums of Money con- tributed to the ge- neral Fund or pub- lic Revenue.
Canada, and it its De- pendencies }	100,000	5	£50,000
Nova-Scotia, C. Breton and Newfoundland }	20,000	1	10,000
Massachusetts - -	280,000	14	140,000
New Hampshire - -	40,000	2	20,000
Connecticut - - -	200,000	10	100,000
Rhode-Island - - -	80,000	4	40,000
New York - - - -	160,000	8	80,000
Jerseys - - - - -	120,000	6	60,000
Pensylvania - - -	280,000	14	140,000
Maryland - - - -	160,000	8	80,000
Virginia - - - - -	280,000	14	140,000
N. Carolina - - -	40,000	2	20,000
S. Carolina - - -	80,000	4	40,000
Georgia, E. & W. Flor. } Bermudas & Bahamas }	20,000	1	10,000
All North America	1,860,000	93	930,000
Barbadoes - - - -	100,000	5	50,000
Jamaica - - - - -	180,000	9	90,000
Antigua - - - - -	60,000	3	30,000
Nevis, St. Kitt's, Mont- ferratt, Grenada, St. Vincent's, &c. }	60,000	3	30,000
All the W. Ind. Islan.	400,000	20	200,000
England and Wales - -	10,000,000	500	5,000,000
Scotland - - - - -	1,500,000	75	750,000
Ireland - - - - -	3,000,000	150	1,500,000
G. Britain and Ireland	14,500,000	725	7,250,000
Grand Total of the } British Dominion }	16,760,000	838	8,380,000

N. B. It is supposed, that the increase of people and wealth in the new provinces would soon raise the number of shares to a thousand, and the proportional revenue of course to ten millions. Thus, on this plan, the increase of dominion, by extending our colonies, would neither be dangerous to our liberties, nor an addition to our expences; but on the contrary, like the new buildings in the parishes of Marybone and St. George, would lighten the taxes of the old ones.

THE
Rights of Parliament
VINDICATED,
On Occasion of the late
STAMP - A C T,
In which is exposed
THE CONDUCT
OF THE
AMERICAN COLONISTS.
Addressed to all the People of
G R E A T B R I T A I N.

“ Omnem Divini, humanique moris Memoriam abolemus,
“ Cum nova peregrinaque patriis & priscis præferimus.

“ Ufus & consuetudo Parlamenti est lex Parlamenti,
“ Lex Parlamenti est lex Angliæ,
“ Lex Angliæ est lex terræ,
“ Lex terræ est secundum Magnam Chartam.

L O N D O N :

Printed for J. ALMON, opposite Burlington-House, in
Piccadilly. 1766.

[Price One Shilling.]

THE
Rights of Parliament

INDICATED

STAMP ACT

THE CONDUCT

AMERICAN COLONISTS

OF GREAT BRITAIN

By JAMES OSGOOD, Esq.
of the Middle Temple, Barrister at Law.
Author of "The Rights of the Colonies," &c.
London: Printed by J. G. S. 1790.

LONDON:

Printed for J. G. S. opposite the Theatre Royal, in Pall Mall.

[Price One Shilling]

T H E

Rights of Parliament, &c.

AFTER all the pamphlets published on occasion of the dispute between the colonies, and this their mother-country; all the arguments used pro and con; the pains taken by many sensible and learned men to unravel a question, which, at first view, appeared complicated, and which at present seems perfectly well understood; it may be deemed impertinent to attempt any thing more on the subject. But the lower class of people are not capable of deep reasoning; yet they have a right to be informed in all great constitutional points, and that in such a manner as shall be adapted to their understandings. I shall therefore enter upon the subject without further apology; and, as I write chiefly for their sakes, shall (attempt at least to) treat

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this important point in such a plain way, as shall render it perfectly intelligible to the meanest reader.

The Americans pretend to be aggrieved by the late Stamp-act, under pretence that it is *contrary to their charters*, and an *infringement of the rights and privileges of British subjects*, who can only be taxed by *their own consent*, or that of their legal representatives: they indeed, for the present, acquiesce in the supremacy of the British legislature, and therefore submit to the laws of trade and navigation (which they call external taxes) but they deny the power of the British parliament to impose internal taxes upon them, because they are not represented in a British House of Commons.

Now I will tell you, what is generally understood by external and internal taxes, or, as a great * author saith, by foreign and intestine taxes: and my meaning in telling it you. is only that you may have a little idea of what the Americans mean by the distinction; for, if you will read these few sheets with attention, you will find that the same authority which hath the right of imposing the one tax, hath also the right of imposing the other. By *external* or *foreign* tax, is meant such as is

* Petit jus parliamentarium.

raised on trade or merchandize exported or imported, or, in other terms, the laws of trade and navigation; and this the Americans sometimes condescend to allow.

By internal or intestine, such as is raised in the commerce and dealing that is at home within ourselves; and this they deny.

From this distinction of the Americans, (your colonists) there result a few points, which, that you may the more clearly comprehend, I will speak to separately, under the following heads.

1st, They allow of external taxes, as subjects of the realm, but deny internal ones, because they are not taxed by their own consent, as not being represented in a British House of Commons: and hence hath arisen a vague distinction (calculated merely to deceive you) between the representative and legislative capacity of the House of Commons, as if they could only impose taxes by their representative capacity, but could make laws and statutes by their legislative power. Now, in order to enable you to judge clearly of this matter, you must be informed,

First, Whether, by the laws of your constitution, there is any real distinction made between the right of imposing external and internal taxes.

Secondly, Whether there is any distinction between the representative and legi-

flative capacity of the House of Commons.

Thirdly, Whether the American colonists are not as fully represented in a British House of Commons, as any of you who are not electors, that is, who have not a right of voting at the election of a member of parliament.

These three great points being once discussed, I will then endeavour to shew you the falsehood of the Americans assertion, viz. that the imposing internal taxes is an infringement of their charters.

First, Whether, by the laws of your constitution, there is any distinction made between the right of imposing internal and external taxes :

By Magna Charta it appeareth, that the King cannot lay taxes upon his subjects without the consent of parliament, which consisted of the * archbishops and bishops, the abbots, the earls, the greater barons, and the tenants in capite : and therefore the King and high court of parliament constituted the supreme legislature, which was, and is, and must, from the nature of it, be endued with all powers incident to supremacy, in every country and in every government.

What those powers are you shall hear :

* Archiepiscopus, episcopus, abbates, comites, majores barones, et omnes illos qui de nobis tenent in capite.

“ What-

“ Whatsoever is regularly determined
 “ and approved of :

1st, “ By the counsel and consent of
 “ the great men, magnatum.

2dly, “ By the general agreement of
 “ the commonalty.

3dly, “ With the regal authority first
 “ obtained.

“ That hath the force of law.”—[Bruc-
 ton.

Again : The statute of Magna Charta,
 Charta de Foresta, and the other statutes,
 were made by the king and his predeces-
 sors, the peers, and the commons of the
 realm. Statute of 15 Edw. III.

Again : “ Whatever concerns the estate
 “ of the realm and people shall be treated
 “ of in parliaments by the king, with the
 “ consent of the prelates, earls, barons,
 “ and commonalty * of the realm, as
 “ hath been customary heretofore.” Sta-
 tute 17 Edw. II.

I could quote you many more authori-
 ties, but these will be sufficient to shew
 you what plenary and absolute authority,
 pre-eminence and jurisdiction were inse-
 parably united, annexed, and belonging to
 parliament. And therefore I will now

* The commons were summoned not for their
 consent to taxations, but for divers and arduous busi-
 nesses, “ pro diversis & arduis negotiis.”

set down a summary of the many great objects of parliament.

They enact laws.

They repeal former ones.

They regulate times present and to come

Transfer the rights and possessions of private persons.

Legitimate bastards.

Make laws concerning the worship of God.

Change weights and measures.

Settle the right of succession.

Determine controversies where the law is uncertain, or hath made no provision.

Value mens estates.

Impose pole money and customs.

Pardon offences.

Restore families ruined by the delinquencies of their ancestors, &c. — [Sir Thomas Smith, Secretary to Queen Elizabeth.

You see plainly then, that there is no distinction between internal and external taxes, and that the power of imposing any taxes at all is but one of those acts of sovereignty inherent in the legislative authority; and therefore a great * man who studied our constitution, and who drew all his conclusions from thence, very justly saith, “ the power of imposing taxes, and

* Petit jus parliamentarium

“ of

“ of making laws, are *convertitia* & *coincidentia* ; that is, whosoever can do the one can do the other.” And this will appear evident to you, when you consider the nature of all taxes, and the end for which they are imposed, viz. to enable government to provide for the security and safety of all the British dominions, that you may enjoy your property in peace and quietness. Now if the parliament, with the assent of the King, had only power to impose external taxes, that is, upon your imports and exports, and that you was to have a French or Spanish war, your trade must suffer in proportion to the means you would want to defend it ; and if no internal taxes were to be laid by parliament, there would be no money to fit out any fleet to protect your trade, which being lost, the tax upon it could bring in nothing at all ; and thus you would be wholly at the mercy of the enemy, not only for your trade, but for your lands and property ; so that the parliament would have only the power of cramping you in your trade in time of peace, and not of providing for your safety in time of war. And this shews the folly of the distinction made by the Americans on this head, only calculated to lessen the authority of the British parliament for their own selfish views, and to undermine

undermine our constitution, by denying the supremacy of the legislature; and to colour their proceedings, they make a distinction between the representative and legislative capacity of the House of Commons, as if the House of Commons had a right of imposing * external taxes by virtue of their legislative power, but not internal ones, because they do not represent the colonies: by which such members of parliament, as have property both in England and America, might tax their constituents in this country, while they kept their estates in America free from all taxations.

This is a new doctrine, void of all foundation, for the House of Commons hold their legislative power by virtue of being the representatives of the people, and by that tenure only; and one of the great prerogatives of the legislature is, the power of imposing taxes, internal as well as external; so that when one of your American colonists deny the right of parliament to lay any internal taxation on them, they must, by a parity of reason, deny all the legislative power of the House of Commons over them; for by our happy constitution the rights and privileges of a Bri-

* There is no real distinction in the constitution between the power of imposing internal and external taxations.

tish subject are not confined within the bare limits of being taxed only by their own consent : no : they can refuse obedience to every law or statute whatsoever, not made with their own consent, that is to say, which their representatives shall not have assented to ; and the House of Commons hold their right of assenting only, as hath been said, by virtue of their representation ; from whence it necessarily follows, that whatever subject can legally resist a taxation, under pretence of not being represented in a British parliament, can as legally, under the same plea, refuse obedience to any other act of parliament, and to every other act of legislative power, exercised under the different heads already enumerated, and many more which might be given ; so that if this argument of the colonists proves any thing, it proves too much, and by a fair inference, tends to release them from all dependence on the legislature of Great Britain, at the same time that they are sworn liege subjects to the King, and claim every valuable privilege of a free-born subject ; and this must appear to you all very absurd, because, in such a case, all who have a mind to be mutinous and refractory, and rise up against the power of sovereign authority vested in the King and high court of parliament, would have the same right with

you, that are loyal, dutiful, free-born subjects; and what those rights are I will set down for your satisfaction, as I find them recited in one of the American charters.

“ To inherit, or purchase, lands, tenements, revenues, services, and other hereditaments, in any part of the King’s dominions; to occupy, enjoy, give, sell, alien, and bequeath the same, freely and quietly to possess all liberties and franchises of this kingdom.” So that they can qualify themselves for freeholders, and even become members of parliament; and these valuable rights they actually enjoy at the time that they are refusing to submit to a just and legal act of the supreme legislature, by a silly difference of representative and legislative capacity,* a mere jingle of words, and a distinction without a difference.

You have already been told, that the legislative authority, in every country, must have all the powers incident to supremacy.

That in this country the commons hold all their share of power in the legislature by virtue of being the representatives of the people, and by that tenure only.

* There is no distinction between the representative and legislative capacity of the House of Commons.

That whoever hath the right of imposing external taxes, must also have the right of imposing internal ones, from the nature of sovereign power.

That whoever hath the power of making laws, hath the power of imposing taxes.

From all which, you will naturally conclude, that the colonists are really represented in a British parliament, without which they could not even be subject to our laws of trade and navigation, or to any other act of parliament. I shall therefore discuss this point, and leave you all to judge, whether the American colonists are not as fully represented in parliament as any of you who are non electors, that is, who have not a right of voting at the election of a member of parliament.

The proposition maintained by them is, “ that no British subject can be taxed but “ by his own consent in person, or by his “ deputy.” Now this is not the constitution, nor doth Magna Charta express any such thing; for by that rule no English subject would be liable to any taxation who had not a right of voting at the election of a member of Parliament; and by a very moderate computation, there would not be a fifteenth part of the people of England, or above five thousand of the inhabitants of Scotland, represented at all. Whereas all

that Magna Charta says, is, that the King shall lay no tax on the subject without consent of parliament, which is defined to be an assembly of the Archbishops, Bishops, Abbots, Earls, Greater Barons, and Tenants in Capite, who, with the King's assent, had a right of imposing taxes on all the subjects of this realm.

Such of the inhabitants of England, as did not stand in one of the abovementioned ranks, were precisely in the same predicament that non* electors, non free-holders are now; and yet, saith Sir Thomas Smith,

“ Whatever the people of Rome could
 “ do in their Comitia Centuriata, or Tribunitia, all those things are properly
 “ transacted in English parliaments, as
 “ being assemblies in which both Prince
 “ and people are represented; for we are
 “ all supposed to be present in that assembly, of whatever quality, station or dignity, whether noble or ignoble, by ourselves, or representatives.

How far this may be applicable to the colonists, can only be known by going back

* Among the non electors are the freeholders of the city of London, who, as such, have no vote at an election either in the city of London, or county of Middlesex, and yet by a moderate calculation pay above one seventeenth part of the land tax of the whole united kingdom. To these may be added the merchants of London, and those whose property is in the funds,

to their forefathers, the original planters, and examining their condition and rights at the time of their separating from their parent state; for it is a maxim well known, "that no heir can inherit greater rights and possessions than the person of whom he inherits was intitled to:" And altho' the rule of prescription hath place in many instances between subject and subject, and sometimes between nation and nation, yet can it never be pleaded between subject and supreme legislature.

The first American planters were originally subjects residing in England, little more than a century ago, who, upon a prospect of great advantages to themselves and their posterity, most humbly petitioned that they might be permitted to quit their native country and settle in America: The crown attended to their petitions, and graciously granted their request, for which two special reasons were assigned; first, the extending the christian religion and converting unbelievers to the true faith; secondly, the extending of the British dominions; and, accordingly, in the royal charters which King James the first granted them, and whereby they became a corporation, these two reasons are exprest.

Now at the time that these planters obtained this charter, there was a parliament holden.

Some

Some of them were freeholders, and had voted at the election of members for this parliament; others were non electors, who were, as they are now, represented by the freeholders; for all belonged to some county, city or borough. It is plain then, when they emigrated or left this country to seek their fortunes in a strange land, they were all of them represented in the parliament then existing, as fully as all of you now are in the present parliament.

In the next parliament, which was held after they went away, such of them as retained any freehold in England had a right of voting at the ensuing election; such who had sold their freeholds, and such who had none, were exactly in the same situation as all the rest of his Majesty's English subjects who were non electors, and had no right of voting at an election. The first, that is, those who retained any freehold, although they were debarred the exercise of their right by absence, yet it was a voluntary absence; and all of you know, that when any freeholder is absent on such an occasion, it is his own fault; but yet he must abide by the decision of the remaining freeholders who do vote: The two last, that is, those who had sold their freeholds, or those who had none to sell, as they must have abided by the election of the freeholders who voted, had they been present;

so

so their absence, whether in England, on the sea, or upon the land of America, made no difference. It is plain then that the first planters, the forefathers of the present colonists, were not only represented in parliament at the time of their emigration, but even after it, during the course of their lives. And indeed this must have been the express condition on the side of the first planters, when they were suffered, under a royal charter, to quit this country for good and all, to go and live beyond seas, and to retain all the noble privileges for them and their posterity of free-born subjects: I say, express conditions, if not in words at least by tacit consent and fair implication; for if all free-born subjects, resident now in Great-Britain are under the power of the supreme government of the realm, all who claim such privileges must be equally so; without which they can have no right to them: but their very condition at the time of their emigration will prove the fact. Suffered, as they were, to absent themselves, they were neither convicts exiled to a foreign land, nor orphans destitute of a tender parent, willing and able to protect them: No; they were adventurers who sought to better their fortunes in a country unknown; who had to combat with the dangers of the sea; a difference of climate; a set of barbarians, uncivilized and
jealous

jealous of their property; an uncultivated country and numberless other difficulties, and who relied upon the constant assistance and protection of England for the establishment of their colony in time of peace, and the defence of it in time of war. No subjects then of this realm could be more dependant upon the mother country, than the first planters were; evidently represented in parliament, acknowledging the supremacy of the legislature, and confident of their protection, they quitted England, to leave to their children all the rights they enjoyed themselves, with the valuable acquisition of territories, which should enrich their posterity. The present colonists are that posterity; they enjoy all the rights and privileges of their forefathers, with the increase of territory, although not of dominion; for according to the maxim already laid down they cannot possess more rights and privileges over their mother country than their forefathers had to bestow.

As representatives therefore of the rights of their progenitors, in the same light that an heir apparent is the representative of an estate entailed upon him, the present colonists inherit the privileges of their forefathers, and are to be considered as belonging to those boroughs, cities, or counties, from whence their forefathers issued: they stand
in

in their place, and must be reckoned among the people thereof, non presidents, non electors, or non free-holders, but still virtually represented in a British parliament, as fully as the non electors resident in Great-Britain are at this time.

Judge now for yourselves, whether these American colonists,* these subjects of the realm, although possessing a foreign land, are not equally represented in parliament with all of you who have no right of voting at an election, and yet are indispensably bound by duty, and that duty resulting from your original constitution to pay implicit obedience to all laws, statutes, taxations, whether internal or external, authorized, prescribed and warranted by the supreme legislative of the land, that is assented to by the King, lords, and commons in parliament assembled, and judge impartially what grounds these colonists can have under the foregoing pleas for their present defection, by which they have involved, at least for the time being, many eminent merchants and mechanics of this land in the greatest difficulties.

Let us now see whether their last resource of an *infringement* of their charters hath more validity in it than all the rest.

* The colonists are virtually represented in parliament as fully as the non electors resident in Great-Britain.

To conclude that any charter is incapable of the controul of that government under which it holds, is to suppose that such charter contains prerogatives and powers equal with the government itself, which is a greater absurdity ; for some degree of superiority must remain in that power which gives, over that power which receives ; otherwise, from the instant the charter is perfected, the grantees become a sovereign power, neither directly or indirectly dependant upon that government which gave them constitution. Now the greatest of all grants in this country is held by parliamentary charter ; and unless I am misinformed, this is the case of the East-India company ; yet should they attempt to shake off the sovereignty of this country over them, I appeal to themselves, whether they would not violate their charter ; or whether, great and extensive as their privileges may be, there are not such restrictions in their charter, as effectually manifest the superiority of that power which gave it, over that which received it.

A parliamentary charter, I have said, is the greatest of all others, as whatever conditions are granted therein are controulable by no power whatsoever, because it is an act of the legislature of the land, that is, of sovereign authority, beyond which no power over the British dominions can exist :

exist: but this is not the case of the Americans; they hold by a royal, not parliamentary charter, the difference of which I will now explain to you, as derived from the constitution of this country.

The sovereign * power is agreed to be in the king, but it is a two-fold power. The one in parliament, as he is assisted by the whole state; the other out of parliament, as he is sole and singular, guided merely by his own will. And of these two powers the one is greater, and can direct and controul the other; and that is the "suprema potestas," or sovereign power of the realm; the other is "subordinata," that is, subordinate to it.

The king's power then in parliament exceeds his power out of parliament, as far as supreme and sovereign authority can exceed limited prerogative in a mixed state.

The king may † make such a grant out of parliament as shall bind him and his successors; he cannot revoke it, nor his successors; but by his power in parliament he may defeat and avoid it.

Again, 11. Rep. 87. Dyer 52. The King cannot make a grant "non obstante," any statute made, or to be made; if he doth, any subsequent statute, prohibiting

* Petit

† Petit.

what is granted, will be a revocation of the grant.

The inference from this is plain and obvious: that no royal charter, granted out of parliament, can preclude the high prerogatives of parliament, or exempt the colonies from their plenary jurisdiction and controul over leige subjects of the King.

Nor is it a consequential argument, because any of the colonies have, by a royal charter, a power of making laws for their own community, if not repugnant to the laws of England; or of imposing taxes by their own representatives, for their internal police, that therefore they shall not be liable to taxation of any kind by act of parliament; since the lesser power never can exclude the greater, and that we have seen the King's authority out of parliament is that lesser power, and his authority in parliament that sovereign power which can controul and give the law to all others; and here let it be remembered, that the late Stamp-act had the royal assent.

“ Let us suppose, that the usage of
 “ raising money in the several colonies,
 “ for separate and local purposes, was
 “ founded upon an act of the whole legislature,” (that is a grant by a parliamentary charter) “ then the colonies
 “ would,

“ would, in that respect, be in the same
 “ situation with the several counties in
 “ England, which do, by authority of par-
 “ liament, raise money within themselves,
 “ for their separate and local purposes :
 “ but no man ever conceived, that this
 “ regulation of internal police would
 “ give rise to a debate, whether every
 “ county was not a kingdom ?”

The royal charters themselves differ in
 extent of privileges; the utmost whereof
 is contained in that of Maryland, where-
 in the king covenants for himself, his
 heirs and successors, that “ he and they
 shall at no time hereafter set, or cause to
 set, any imposition or other taxation upon
 the lands, goods, or chattels, within the
 said province, or upon any goods or mer-
 chandize,” which includes both internal
 and external taxes; yet still this is but a
 royal grant, out of parliament, binding
 the royal prerogative, but not excluding
 his greater power in parliament, where he
 is in the fullness of his majesty, that is,
 in the fullness of his sovereignty over all
 the British dominions.

Granting, therefore, the utmost lati-
 tude to the charters of the American co-
 lonies, by taking it from the Maryland
 charter, it is very plain they cannot be
 absolved from an implicit obedience to
 acts of parliament; because no power can
 give

give them that which it hath not itself; and that the King hath not, by his prerogative, the right of precluding the privileges of parliament; and, therefore, a submission * to any act of parliament can never be an infringement of their charters: but since these people lay so much stress upon those charters, it may be worth while, at this crisis, to lay before you the conditions of some of them, by which you will be enabled to judge how far they, who so loudly and tumultuously complain of a breach of the rights and privileges belonging to a British subject, have performed the articles of their respective covenants.

On † occasion of the Stamp-act, the general assembly of the Virginians came to several resolutions, couched in such terms, that the governor thought fit to dissolve them.

In Virginia also the justices of Westmorland met, and unanimously resigned their offices, lest they should become instrumental in the destruction of their country's most essential rights and liberties; that is, lest they should assent to the Stamp-act, not imposed on them (according to American logic) by their own con-

* Submission to any act of parliament is not an infringement of a royal charter.

† Owen's Collection of Charters.

sent, or their legal representatives in British parliament.

Now it is remarkable, that the general assembly of Virginia did not constitute the supreme court which was to make laws, or impose taxes, for that province: No; by the 8th article of the first and second charters of King James I. this power was expressly reserved to a council which was to be ALWAYS resident in England, to have the superiour management and direction of all matters that might concern the province, and was to be called the King's own council of Virginia: many peers of the realm, as well as commoners, composed this council, which had full power to make all manner of orders, laws, &c. at their discretion, and to admit and receive any person into their company, corporation or freedom; and from the instant the colony had the requisite notice of this the King's pleasure, all laws formerly made by them were to cease.

The charter of the Pensylvanians is still more explicit.

“ Penn and his heirs shall be authorized
 “ to make laws, provided a transcript of
 “ the same be transmitted to England,
 “ to be confirmed by royal authority;
 “ otherwise to be void.”

Grants full licence to trade, but according to the laws made, or to be made:

“ Saving

" Saving unto us, our heirs and succes-
 " sors, such impositions and customs as
 " by *act of parliament* are and shall be
 " appointed; and reserving a power to
 " seize and resume the government of the
 " province, on non-payment, until such
 " payment shall be made good."

In opposition to such restrictions, and
 in the face of their charter, the assembly at
 Philadelphia came to divers resolutions,
inter alia.

" Resolved, N. C. D.

" That it is the inherent birth-right
 " and indubitable privilege of every Bri-
 " tish subject to be taxed only by his
 " own consent, or that of his legal repre-
 " sentatives, in conjunction with his ma-
 " jesty, or his substitutes.

" That the only representatives of the
 " inhabitants of this province are the per-
 " sons they annually elect to serve as mem-
 " bers of assembly.

" That the taxation of the people of
 " this province, by any other persons
 " whatsoever than such their represen-
 " tatives in assembly, is unconstitutional,
 " and subversive of their most valuable
 " rights."

The colony of Massachusetts Bay were
 foremost among the refractory, and chimed
 in with the most tumultuous; in conse-
 quence of which their governor, Mr. Ber-
 nard,

hard, a sensible and wise man, and truly zealous for their interests, forewarned them of the consequences which might attend their misbehaviour, by a speech, of which the following is an extract * :

“ I shall not enter into any disquisition of the policy of this act; I have only to say, it is an act of parliament of Great Britain, and as such ought to be obeyed by the subjects of Great Britain. And I trust that the supremacy of that parliament over all the members of their wide and diffused empire never was, and never will be, denied within these walls.

“ The right of the parliament of Great Britain to make laws for her American colonies, however it has been controverted in America, remains indisputable at Westminster. If it is yet to be made a question, who shall determine it but the parliament? If the parliament declares, that this right is inherent in them, are they like to acquiesce in an *open and forcible opposition* to the exercise of it? will they not more probably maintain such right, and support their own authority?

“ It is said, the gentlemen who opposed this act in the house of Com-

* Owen's Collection of Charters.

“ mons, did not dispute the authority of
 “ parliament to make such a law, but ar-
 “ gued upon the inexpediency of it at
 “ this time, and the inabilities of the
 “ colonies to bear such an imposition :
 “ these are two distinct questions, which
 “ may receive different answers.

“ The power of taxing the colonies
 “ may be admitted, and yet the expedi-
 “ ency of exercising that power at such a
 “ time may be denied : but if the ques-
 “ tions are blended together, so as to ad-
 “ mit of but one answer, the affirmative
 “ of the right of parliament will conclude
 “ for the expediency of this act.

“ Consider, therefore, gentlemen, if
 “ you found your application for relief
 “ upon denying the parliament's right to
 “ make such a law, whether you will not
 “ take from your friends and advocates
 “ the use of those arguments which are
 “ most likely to procure the relief you
 “ desire.”

Such a speech as this became a go-
 vernor of a British colony, at the same
 time that it manifested his zeal for the in-
 terest of that province over which he pre-
 sided. It also shewed his knowledge of
 the constitution of this country, and of
 the powers of the supreme legislature, to
 which we are all bound in implicit obe-
 dience, yet with a reserve of setting forth
 our

our grievances by humble petitions, as long as we do it in a submissive manner, as becomes dutiful subjects, but not by riot and tumult, and an open and forcible violation of the laws. And therefore, Mr. Bernard saith, obey the act for the time, remonstrate against it as a burthen too heavy for you to bear, and rest assured, that Great Britain, ever tender to her colonies, which she considers as her children, will attend to your petitions, and give you all the reasonable relief you can desire.

But sensible and humane as this speech was, the Massachusetts gave no ear to it; but on the contrary, like a parcel of wild Enthusiasts, they presented to their governor a passionate and inconclusive address; in which, among other things, they say, “ We cannot but be surpris’d
 “ at an intimation in your speech, that
 “ the parliament will require a submission
 “ to an act as a preliminary to their granting relief from the unconstitutional burthens of it, which we apprehend includes a suggestion in it far from your
 “ Excellency’s design, and supposes such
 “ a wanton exercise of mere arbitrary
 “ power, as ought never to be surmised
 “ of the patrons of liberty and justice.
 “ We beg leave to observe, that the character of this province invests the general
 “ assembly

“ assembly with the power of making
 “ laws for its internal government and
 “ taxation, and that this charter has ne-
 “ ver yet been forfeited. The parliament
 “ has a right to make all laws within the
 “ limits of their own constitution, they
 “ claim no more.

“ There are certain original rights be-
 “ longing to the people which the parlia-
 “ ment itself cannot divest them of :
 “ among these is the right of representa-
 “ tion in the same body which exercises
 “ the power of taxations, &c.

“ We hope we may, without offence,
 “ put your Excellency in mind of that
 “ most grievous sentence of excommuni-
 “ cation, solemnly denounced by the
 “ church, in the name of the most sacred
 “ Trinity, in the presence of King Henry
 “ the III^d, and the estates of the realm,
 “ against all those who should make sta-
 “ tutes, or observe them being made,
 “ contrary to the liberties of Magna
 “ Charta.” The substance of all which
 may be collected within very few words.

First, They accuse the British parlia-
 ment of a wanton exercise of mere arbi-
 trary power, if they insist on obedience
 to the stamp act, and then they call them
 the patrons of liberty and justice. This
 is to break a man's head, and then give
 him a plaister.

Secondly

Secondly, They talk of their inherent rights, of the rights of representation in the same body which exercises the power of taxation.

Thirdly, They claim, by their charter, the power of making laws for the internal government of the province and its taxation, and assert, they have never forfeited that charter.

Fourthly, They quote a precedent in the reign of Henry the III^d, to shew the supremacy of the church over Magna Charta.

By this time you all of you know, that the power of making laws, or of imposing internal taxes for the police of any community, held by royal charter, cannot preclude the rights of the supreme legislature over that subordinate community: and, therefore, that you may not be confused by this jargon of address, I will confine myself to those parts of it which relate to the charter of these colonists, and to the remarkable precedent they have quoted.

The Massachusetts had a charter granted them, which they forfeited in the year 1686, chiefly by a conduct parallel to this in which they appear to take so much glory: but that you may not think me partial, I will give you a short account of it, as related by Mr. Hutchinson, their lieutenant

lieutenant governor, in his history of Massachusetts Bay, published but last year.

“ It was a difficult thing, saith he, for
 “ the Massachusetts to conform to the acts
 “ of trade and navigation : they acknow-
 “ ledge, in their letter to their agents
 “ 1679, they had not done it. — They
 “ apprehend them to be an invasion of the
 “ rights, liberties, and privileges of the
 “ colony, *they not being represented in par-*
 “ *liament* ; and according to the usual say-
 “ ings of the learned in the law, the laws
 “ of England were bounded within the
 “ four seas, and did not reach America.”

They were at that time then by one degree more audacious than they are now, for they even denied the power of parliament to impose external taxes, and refused submitting to the laws of trade and navigation. And what was the consequence of it ? Why, as Mr. Hutchinson tells us, the whole colony suffered the loss of their charter, this being the greatest article of charge against it. In consequence of which, royal commissions were sent to govern the province ; nor could they get another charter, notwithstanding all their solicitations, until the year 1692, under King William and Queen Mary ; in the preamble of which, the vacating their former charter is expressed as follows :
 “ And whereas, in the term of the Holy
 “ Trinity,

“ Trinity, in the 36th year of the reign of
 “ our dearest uncle King Charles II. a judg-
 “ ment was given in our court of Chan-
 “ cery, then sitting at Westminster, upon a
 “ writ of *scire facias*, brought and prose-
 “ cuted in the said court against the go-
 “ vernor and company of Massachusetts
 “ Bay, in New England; and that the
 “ said letters patent of our said royal
 “ grandfather King Charles the 1st, bear-
 “ ing date at Westminster the 4th day of
 “ March, in the fourth year of his reign,
 “ made and granted to the said governor
 “ and company of Massachusetts Bay, in
 “ New England, and the enrollment of
 “ the same, should be cancelled, vacated,
 “ annihilated, &c.”

One should have thought, that the for-
 feiting of one charter would have been a
 warning to these people not to rise up
 against English acts of parliament; but it
 seems their infatuation continues, and they
 now renew their claim of taxing them-
 selves, because they are not represented in
 a British parliament, and that no subject
 can be taxed but by his own consent.

That they are represented in a British
 parliament as far as non electors can be,
 which is, as far as the majority of the in-
 habitants of Great Britain are, has been
 already shewn: but as they insist, that
 every subject must be taxed by his own
 consent,

consent, or his legal representative, it necessarily follows, that unless their assembly, which voted the address to their governor, Mr. Bernard, consisted of members legally elected, according to their present charter, that very assembly is unconstitutional, according to their own way of reasoning, and in the full exercise of a mere arbitrary tyrannical power : and their arguments, which can never be valid, against the supremacy of the British legislature, will yet be the most forcible ones against the legality of their proceedings, even within their own community, and will add double weight to their already flagrant and iniquitous opposition to the just authority of the British legislature.

“ The great and general court of assembly (saith their charter, shall consist of
 “ such freeholders of our province, as
 “ shall, from time to time, be elected, or
 “ deputed, by the major part of the free-
 “ holders, and other inhabitants : pro-
 “ vided always, that no freeholder, or
 “ other person, shall have a vote at the
 “ election of members to serve in the
 “ great and general court of assembly, to
 “ be held as aforesaid, who, at the time
 “ of such election, shall not have an estate
 “ of freehold in land, within our said pro-
 “ vince or territory, of the value of forty
 shillings

“ shillings *per ann.* at least, or other estate to the value of fiftypounds sterling.”

“ And again, “grants, establishes, and ordains, that for ever after there shall be a liberty of conscience allowed, in the worship of God, to all Christians (except Papists) inhabiting, or which shall inhabit, or be resident within our said province or territory.”

Nothing sure can be more plain or precise. The requisites for a vote at an election of a member to serve in their general assembly are, a freehold of forty shillings a year, or an estate to the value of fifty pounds: nor can any inhabitant forfeit his right of freedom by any difference of opinion in religious points. These are express conditions in their charter; how far they have kept up to them, their own lieutenant governor shall declare.

“ None may now be admitted a freeman of that company, unless he be a church member thereof (*i. e.* a congregational puritan.) None have voice in the election of governor, deputy, and assistants. None are to be magistrates, officers or jurymen, grand or petit, but freemen. The ministers give their votes in all elections of magistrates. Now the most of the persons at New England are not admitted of their church, and therefore are not freemen;

“ and when they come to be tried there,
 “ be it for life or limb, name or estate,
 “ or whatsoever, they must be tried and
 “ judged too by those of the church, who
 “ are in a sort their adversaries : how
 “ equal that hath been, or may be, some
 “ by experience do know, others may
 “ judge.

“ Had they been deprived of their ci-
 “ vil privileges in England by an act of
 “ parliament, unless they would join in
 “ communion with the churches there,
 “ it might have very well been the first
 “ in the roll of grievances.”

Now I leave you all to judge, how far
 this assembly can be deemed a legal repre-
 sentation of all the freemen of that pro-
 vince, composed as it is of a set of puri-
 tanical zealots, elected only by those of
 their own communion, and not by the
 majority of the freemen ; and whether
 the freemen, who are excluded, may not
 justly complain of an infringement of their
 charter by this assembly, which is now
 daringly attacking the rights of parlia-
 ment.

As to their quotation of a sentence of
 excommunication pronounced against the
 King and the state in the reign of Henry
 the III^d, it is little to the purpose, unless
 a puritan of their persuasion was to be
 invested with papal power over the British
 dominions ;

dominions ; but as they have chosen to go so far back into our history for a precedent, I will meet them half way, and quote you an answer of the same King on a similar occasion.

In the year 1252-37 Henry III. the master of the hospital of St. John of Jerusalem in Clerkenwell, waiting patiently for a proper opportunity of speaking with the King concerning an injury done him, opened his complaint and showed some charters of protection granted by former kings, and by the King himself ; to whom the King with a loud voice replied in anger, and with a great oath, “ you and the templers have
 “ so many liberties and charters, that your
 “ superfluous possessions make you proud,
 “ and your pride makes ye mad : Those
 “ things therefore ought prudently to
 “ be revoked, which were imprudently
 “ granted ; and advisedly to be resumed,
 “ which were unadvisedly squandered a-
 “ way.”

None of you, I am persuaded, wish to see such a sentence put in execution against your colonies, but all will agree that their conduct has been highly undutiful and refractory, and that the reasons they alledge are weak and inconclusive ; for by this time no doubt it is plain to you,

That your colonies are annexed like so many appendages to the British dominions.

That the inhabitants are liege subjects, and hold their possessions and privileges by charter from the King out of parliament, controulable by the King in parliament, according to the maxim herein before mentioned, that the King cannot make a grant non obstante any statute made or to be made; if he doth, any subsequent statute prohibiting what is granted, will be a revocation of the grant.

That their charters can be vacated, and cancelled in a Court of Chancery, as that of the company of Massachusetts bay was.

That the lesser power granted by the King to the courts of assembly, to impose taxes for the internal police of their separate communities, can never preclude the greater power of parliament to tax the whole colonies.

That the same authority which hath the right of imposing external taxes, must from the nature of our constitution have an equal right of imposing internal ones.

That the power of taxing and making laws are coincident and convertible.

That the distinction of a representative and legislative capacity in the House of Commons, is nothing but a jingle of words, a bare distinction without a difference.

That the colonists are as fully represented in parliament, as all the non electors of Great-Britain; that is, as the far greater
part

part of its inhabitants, and therefore, on all the above accounts, that the power of binding the colonies by all manner of laws, taxes internal and external that the King and parliament shall think fit to impose, is clear, indisputable, and uncontrovertible; for the colonists are as much under the dominion of the supreme legislature as any of us all, and their being permitted to retain the rights and privileges of a free born subject, is the return of a supremacy for obedience to its laws and ordinances.

One of the reasons assigned in a statute* 15th Car II. for prohibiting all European commodities from being imported directly to America, was to keep the colonies in a firmer dependance upon England, and render them more beneficial to it. Another statute† (Scobell's Acts. 1656) speaking of the plantations, saith, " which are and ought to be subordinate to and dependant upon England ; and hath ever since the planting thereof been, and ought to be subject to such laws, orders and regulations as are or shall be made by the parliament of England." Nor should it be objected that this last act was made in the time of the commonwealth ; since, in whatever hands the supreme power of Great-Britain may be vested, the colonies must follow the

fate of

* Cap. 7. Par. 5.

† Cap. 28.

that

that government as long as they are annexed to the British dominions; for, by the same rule, the right over Jamaica might be denied, because it was conquered in the time of Oliver Cromwell. Neither can they draw any inference from an argument made use of by some of their advocates; that a money* bill takes its rise in the House of Commons, and therefore the Commons only have a right of imposing taxes. The fact is true, but the conclusion false; it is the King and parliament only that have a right of imposing taxes on the subject; every bill must take its rise in one house or other; and while the House of Lords hath an equal right with the Commons of debating upon the expediency of a money bill, and of rejecting it; and while the King retains the royal prerogative of refusing his assents, that is, while our constitution remains entire, it matters not to the present point, in which house a money bill takes its rise, because it concludes not for or against the present question, viz. The right of the British legislature to impose internal as well as external taxes on the colonies.

* Originally this could not be the case; because the parliament sat in one house, nor is it our business to enquire when and how the two houses agreed upon separate privileges.

Upon

Upon the whole, then, the present defection of the colonists is as groundless as it is presumptuous and ungrateful to their mother country, by whose indulgence, assistance and protection, they hold all their valuable possessions.

If they have really been aggrieved, and cramped in their trade beyond the bounds of moderation, and without any superior advantages resulting therefrom to this country, (for according to the custom * of other countries, we have a right to keep our plantation trade to ourselves;) let them remember they have also been led into the channel of redress by some sensible men among them, whose hearts inclined to their benefit, whose heads laboured for their true interest, and whose wholesome advice they have contemned and trod under foot; and in lieu thereof have set up a mock congress, an assembly of the representatives of representatives, wherein they have usurped a power as unconstitutional as rash and intemperate, which, were it not for the tenderness that Britain hath, and I hope ever will have for all her children, might subject them to the fate of the Massachusetts in 1686.

But it hath been urged, that former wise ministers have ever declined exer-

* 15 Car. II. Cap. 7. Par. 5

cising

cising a power of internal taxation over the colonies, from an unwillingness to give the least umbrage to any of his majesty's subjects, from whose trade Great Britain was so highly benefitted :—be it so ; this argument reacheth no farther than to the expediency of the Stamp-act, and not to the right of making it.

That right hath now been exerted, and as daringly denied by acts of open and forcible resistance, so near a-kin to rebellion, that it is become very hard to draw the line of distinction : and, therefore, that right is now, or never, to be ascertained. Let us then, in a firm confidence of the wisdom and justice of parliament, look up to it with all due deference and obedience, yet with hopes, that this important point, which is, for ever after, to establish the just and high supremacy of the British legislature, will be finally settled ; not evasively, by a few general terms, which may tend rather to leave the question in suspense, but by express words, asserting the undoubted right of parliament to impose internal, external and all other taxes, (if there can be any other) on the colonists, equally as on the inhabitants of Great Britain.

Let us hope that due attention will be paid to that part of the Massachusetts's address

dress, which affects surprize at an intimation, " that the parliament will require
 " a submission to an act, as a preliminary
 " to their granting relief from the un-
 " constitutional burthens of it; which
 " they call a wanton exercise of mere
 " arbitrary power," and that so daring an insult will manifest the necessity of supporting the Stamp-act, however altered or modified in behalf of the colonies, till they dutifully submit to it, that the supreme legislature may not suffer in its rights, nor the colonists think they may make terms with Great Britain sword in Hand.

We are all sure that the parliament will ever attend to the petitions of dutiful subjects, will relieve them where they are aggrieved; and none of his majesty's subjects have had greater proofs of their watchful attention and indulgence than the Americans have.

If they have suffered by any late restrictions on their trade with Spain, or other European powers, by duties on linen or molasses, or in any other shape, the parliament is open to their complaints, and prepared to redress them; but, to borrow an expression, " if it is once understood, that the executive power is to
 " wait for, and be guided by the advice

G

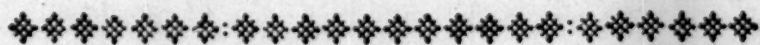
" of

“ of the people; they then direct the ex-
 “ ecutive power, or, in other words, be-
 “ come the executive power themselves;
 “ from whence it follows, that a great
 “ empire is in imminent danger, when
 “ the executive power is exercised by the
 “ people.”

FINIS.



A N
A P P L I C A T I O N
O F
P O L I T I C A L R U L E S,
T O
G R E A T - B R I T A I N,
I R E L A N D A N D A M E R I C A.



[Price One Shilling and Six-pence.]

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A N
APPLICATION
Of some General
POLITICAL RULES,
TO THE
PRESENT STATE
O F
G R E A T - B R I T A I N,
IRELAND AND AMERICA.

In a LETTER
To the Right Honourable EARL TEMPLE.

*Clarissimi viri nostra civitatis temporibus optimis hoc sibi
amplissimum, pulcherrimumque ducebant, ab hospitibus
clientibusque suis, ab exteris nationibus quæ in Amicestiam
populi Romani ditionemque essent, injurias propulsare
cerumque causas defendere.*

Cicero. Orat. Contra Cæcilium,

L O N D O N :

Printed for J. ALMON, opposite Burlington-House,
in Piccadilly. 1766.

APPROVAL

FOR THE

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APPLICATION, &c.

My LORD,

THE diffusive benevolence, and disinterested deportment, which have characterised your Lordship, through each private and public stage of life, points you out as the person most proper to be addressed, by a man, who is willing to lay open some errors in our policy, which require a speedy correction; you, my Lord, will extend your public concern beyond the confines of your native country, and consider every part of the human species, which has any connection with England, as meriting your care and patronage.

There is not, perhaps, any one point of view, in which we can behold this kingdom at present more truly interesting, than that of the relation which it bears to those people, who are connected with us, in a secondary *, or kind of dependant nature; some

* Scotland without doubt, is united with England by the solemn act of both nations, but the fundametal difference of their laws is so great, and their manners and ideas of government so very discordant, that I must still behold them in the secondary light in which it is placed above.

B

united,

united, but not receiving our municipal law, others receiving our laws after a struggle of many centuries, and others willing to make laws for themselves, had they a power to execute them. After a war, therefore, in which a constitutional exertion of our native strength has procured us at least a very respectable commerce, nothing can more justly merit our attention, than those nations, who, beyond the limits of England, form the several branches of the British empire they are numerous, they inhabit countries abounding in all the necessities of life, and fruitful of the materials of many of its comforts; but above all, these countries produce the *genus acre virum marsam pubemque sabellam*; their customs, nay, even their countenances, are British, after a series of generations; they have, in short, every title to the utmost care and regard of the mother country, which interest or affection should bestow.

The more heterogeneous the parts which enter into the composition of any body, the less capable of solidity and permanency will it be; the jarring of their natures preventing that intimate union and firm cohesion, in which the strength of natural and of political bodies does primarily consist. This compactness, once attained to, good laws and institutions communicating their spirit, give it that powerful momentum, which nothing can

can resist ; if then a kingdom, from circumstances of colonization or otherwise, must have a connection with other people, it is the duty and interest of that kingdom to assimilate these people with themselves, as soon as possible ; if to be born and supported by them, the nearer they are drawn like armour or garment, the less sensible will the principal be of the burthen ; if able to support themselves, perhaps assist the mother country, the more closely and naturally joined, the more capable like our limbs, will they be to help and be of service ; and yet strange, although most certain it is, that the conquests and colonies of nations, who themselves have enjoyed Liberty, and are therefore more discerning of the advantages which it must bring to others, have generally felt more oppression, and have been less tenderly cherished by the conquerors or colonizers, than those of absolute monarchies. Thus we perceive, the conquered provinces of Rome, far from being displeased * at the fall of the commonwealth and establishment of despotism. Whether this arises from the mean opinion, which conquerors for the most part conceive of the conquered, deeming them unworthy of, and incapable to make the proper use of Liberty, or from an hatred, im-

* *Neque provinciæ illum statum rerum abnuebant, suspecto senatus populiq[ue] imperio, ob certamina potentium et averitiam magistratum*——Tacit. 1. Annal.

pressed by their obstinacy when an enemy, I cannot determine : however, am inclined to believe, that upon the first reduction of them, the conquerors dared not trust them with Liberty; but upon removal of these apprehensions, by length of time and other circumstances, they ceased to be actuated by the proper motive of conquest; the mighty masters themselves, degenerate and corrupt, lose that benevolence which should share the blessings of a free government with their fellow creatures; nor are they impelled by a desire of serving the human species, in being the instruments of the Almighty, in restoring it to the exercise of a rational, and since the gospel dispensation, a christian well-tempered Liberty : and this, with self-defence, which suggests conquest by way of prevention *, are, in my opinion, the only principles upon which a conqueror can by any means whatsoever be justified. If they consider the hearts of those who have the misfortune of falling under their domination, as too narrow for the entertainment of the noble and elevated sentiments of Liberty, and compare them to weak stomachs, which may be clogged and disabled by solid and substantial food; or an eye, which long used to darkness, unexercised by real objects, nothing presenting but figures and fancies of

* *Cui potestas nocendi exipitur utiliter vincitur.*

Aug. de Civitate Dei.
its

its own creation, and which may be disordered, perhaps destroyed by too sudden an infusion of a strong light; then should liberty be portioned out to them by degrees, according to a judicious and strict political regimen, previous to which it is the duty of the conqueror to enlarge their understandings, meliorate and prepare their hearts, for receiving this plant of *cælestial seed*; otherwise are they left in a worse condition than before, and all the boasted encomiums of their masters upon liberty, and those blessings which their constitution affords, are but blinds to carry on their designs, with vile views of lawless dominion, and of a commerce whose objects are avarice and luxury.

To a person who considers the ends of conquest in that extensive, give me leave to add moral and religious light, in which I am well assured, that your Lordship beholds every political matter; it must be evident, from the acknowledged goodness of the Creator, that the happiness of his creatures was the end of their formation; and that in order to give these creatures an opportunity of rendering themselves more grateful to him, it is placed within their power, by a proper exercise of their faculty and freedom of will, to be the meritorious instruments of making each other happy. One man has it in his power to serve his neighbour, the neighbour gives his assistance where it is wanting:

wanting: one nation supplies by commerce where another is defective, and is relieved in its turn: the conqueror gives to the conquered, arts, sciences, laws, manners; and receives from the conquered, numbers, friendship, additional strength; thereby forming a more powerful community, secured against external violence, quiet in the cultivation of useful knowledge, and in the practice of every moral virtue. It is difficult, I will confess, for a people, who behold themselves superior to others in arts, in arms and industry, not to give way to an over favourable opinion of self; and not to bear an haughtiness of deportment to those, whom they look upon as so far beneath them: this may be excused, it is true, and charged to the account of human frailty in the uneducated, uninformed part of a people; even there, it were better if otherwise, and it is the duty of the leading men in such a state, carefully to suppress by authority and example every appearance of insolence; because, no other things, not even superiority of wealth and power, can create such a degree of jealousy in their neighbours; strangers wish for an opportunity of humbling their pride; their own provinces are at best but indifferent whether they stand or fall, and are often dubious, whether a change of master may not turn to their advantage. Surely then, my Lord, a nation happily circumstanced from situation,

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from climate, from a favourable temperature of mind and body, (all which unjustly attributed to chance, are produced by a chain of causes framed by providence for good and wise purposes) a nation thus distinguished by heaven, should not look upon these advantages as bestowed merely for their own sakes, and their effects to terminate within the narrow compass of England or of Italy; they should behold themselves in no other relation of superiority, than as instruments of promoting real knowledge, pure religion, and virtuous liberty; the three most desirable objects of human pursuit, and which perfected and refined form permanency, substantial, and rational happiness. The power, therefore, which misapplies advantages thus derived from the supreme Being for the above purposes; who thinks each country, whose inhabitants they can out-number or out-discipline, a new source of luxury to their dissipated, effeminate, immoral nobility and gentry; who treat their allies and colonies as ministers only to their pleasures and profusions; the dominion of such a people can be but of short duration; because its existence, and the general scheme of providence, are incompatible: their insolence confirms them that other countries are made for their sole use and gratification; this leads to luxury, to debility, to security; so by natural causes, as clear as the laws of motion to the man
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who closely observes the political effects, which gradations to vice in those individuals constituting a community, have always produced ; this nation's ruin must be accelerated : it must give way to superior virtue ; from which a completion of the designs of providence may with more reason be expected. These ideas of the ends of conquest, however ill suited to the refinement of the age we live in, may I doubt not stand the violence of modern ridicule, if fortunate enough to merit your Lordship's sanction ; and here, however dissatisfied with myself, when varying in opinion from so respectable a writer as the Baron Montesquieu, yet must I declare, that the applause bestowed upon the spirit, with which Alexander conquered the Persian empire, by that great politician, seems founded upon notions of conquest, which arise rather from false glory and ostentation, than any real utility to the human species ; else would he never have panygerized that hero for renouncing the sober, manly, virtuous manners of Greece, and adopting the soft and luxurious manners of Persia ; and to what end ? why, thro' an excess of tenderness to the vanquished. This I will venture to say may be better accounted for by the sudden turn to pleasure, which that young hero had taken, and his love for the fair Asiatick princess, than upon any principles of uncommon humanity ; and
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it is submitted to your lordship, whether his humanity would not have displayed itself to greater advantage, by bringing over the Persians to the discipline of his own country : it being most certain, as he himself has observed, that such nations, as have the misfortune to be conquered, are for the most part degenerated from their original institutions *, rather served by destroying their pernicious prejudices, and laid by conquest under an happier genius ; so that leaving a nation to its own bad laws and customs, which are often a disgrace to humanity, is like leaving a wayward child to its own bad humours, when wholesome correction should be administered, in order to reform a nature, perhaps originally vicious (being born in sin;) and as it is the duty of a parent, whom experience, education, and a mild and moral religion has qualified for the task, to bestow them on his offspring ; nay, to use severity, if found reluctant to his discipline : so is it of a conquering nation, enlightened by literature and pure christianity, to offer to the conquered a better set of manners than their own ; and if rejected, by proper political constraints, where the idea of cruelty is totally excluded, compel to receive them, and become happy.

The moderns, to whom christianity has given great advantage over the antients in that

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article

* Montesquieu l'esprit d'loix, lib. 10. chap. 14.

article of rendering service to human nature, by their power and influence, have propagated their religion, I mean the Catholick sect, with a view only to empire and profit : they propagate religion with a design of making it, by the assistance of their priests, an engine of dominion, rather than a *light to enlighten the Gentiles* ; and infuse so poisonous a mixture of wicked and superstitious prejudices into the chalice, which they present to the innocent deluded natives, whom they have subdued, or set down amongst ; that instead of being invigorated and filled with the spirit to perform good and christian works, they become intoxicated by the draught, and are entirely lost to any notion of the charities. The Protestants agree in considering trade as their ultimate ; but in matters of religion are so cool and indifferent (except in one of our American colonies) that they look upon religion as a plant, which must rear itself for them, or absolutely perish, and scandalously remiss in the business of reclaiming their savage fellow-creatures, to which end alone providence has vested them with such ample powers, think themselves totally acquitted of doing no sort of good by the aid of religion, they can withhold themselves from making it the instrument of evil. Such is the abuse of these advantages, by the nations of Europe who are favoured by heaven, and as it were intrusted

intrusted with the care and instruction of the yet uncivilized part of the globe. The Jews, once a chosen people of the Deity, perversely refused the light of the gospel when offered ; the nations of christendom, who seem elected to be the dispensers of the true religion, either neglect to let in the light upon their fellow-creatures, or throw in such a glare of superstitious pageantry, as must dazzle, or entirely darken their understandings.

It is not pretended, that when enterprizes are set on foot, when discoveries of new countries are proposed, that undertakers can be sufficiently animated by the deliberate moral motive which I have insisted upon. Velasco d' Gama, with the other Portuguese adventurers upon the coast of Africa, whilst they were erecting crosses wherever they landed in honour of christianity, by the acknowledgment of their own historian, De Faria, received the real spur to enterprize from a desire of gold, and other materials of trade: as did, with some addition of a love of fame and glory, the English navigators, Raleigh, Drake, and others. The thoughtless seaman and soldier, must have a mere sensual object for his end. But it is the duty of the cool speculative statesman, to dart his eye beyond the surface ; and to manage in such a manner, that not only his own country, but the human species, shall

receive moral benefit, from the passions and propensities of individuals.

The general obligation by which the civilized parts of the globe are bound to communicate morality, religion, arts and sciences to the rest, and consequently liberty the root of all, (for absolute constraint even to good, puts a negative upon any merit in the action;) I say, my Lord, this general obligation had almost drawn me from sight of my particular subject, which was contracted to the ideas of that bad policy in free states, which have treated their allies or colonies with severity; who have been remiss in preparing them for liberty, and when prepared, who have refused to bestow it on them.

The Romans were brave, they were wise (in spite of Grecian romance), they were virtuous above all other nations; yet were they far from perfection in that part of their policy which related to their allies. It is not the lot of mortals. They entertained notions too exalted of their own merit; and it was with great reluctance, that their neighbours were received into any kind of equality with them; witness the indifference of Romulus, in revenging the death of Tatius*, upon the Laurentes, which had a
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* Eam rem minus agre quam dignum erat tulisse Romulum ferunt, seu ob infidam societatem regni, &c.
post

face of connivance, if not of having been an accomplice in the murder. The vigour, indeed, and courage, with which the Samnites and other Italian states so long defended their independency, was enough to create a jealousy in the minds of the Romans; and we therefore see that it was not, until enemies of greater size and danger had obliged them to form their armies out of these states, that this jealousy abated. Yet, to the last, the center being the post of strength, always consisting of the legions and the allies, placed upon the flanks; this military institution, rigidly observed, prove, that they continued to entertain some doubts, either of the fidelity or capacity of their conquered friends. But as luxury increased, and the apprehension of foreign enemies vanished, their antipathy to the allies became more visible; all notions of that equality, so essential to the very being of republicks, was intolerable; and lords of the world themselves, they would lord it over those who so powerfully contributed to make them so; arrogating the merit of every acquisition made by the states: the profits they also seized upon, by monopolizing the conquered lands, in direct opposi-

post Tatii mortem ab suâ parte non erat regnatum in societate aquâ.

Romani veteres peregrinum regem aspernabantur, liv. 1.

opposition to the old, but not abrogated Licinian law. Thus would they exalt themselves above their fellow soldiers, for no other reason, that we can discover, but that of being born nearer the Tyber, or within sight of the Capitol. The allies were disgusted, and with reason; the Mani, the Peligni, over whom, or without whose assistance Rome never had triumphed, beheld these acts of insolence with the warmest indignation; they demanded that freedom of the city, to which their services had intitled them; they were supported in these demands by Mummius*, Bestia, Cotta, some of the most respectable names of Rome; the second Africanus, who was an eye-witness of their bravery, assisted them with his credit and interest, and lost his popularity amongst the old citizens, by an act of the greatest equity. These last the Patricians had gained, by raising jealousies in their minds against the allies and their abettors, and were most effectually supported by the order of knights, at that time the most profligate body of men that ever disgraced a community; yet, formidable in the possession of a judicial power in cases of bribery, corruption, and misbehaviour in publick office. What the allies could not obtain by the intercession of such

* Vide Appian, on the civil wars of Rome, where he treats of the causes of the social war.

great and virtuous men, they fought by force. A war broke out; the greatest Roman generals, Sextus, Cæsar, Crassus, even Sylla and Marius, yielded in their turns to the bravery and conduct of a Judacilius, an Egnatius, a Cato; so bloody was the war on the side of Rome, as to produce an ordinance, that the killed in battle should be buried on the spot, and not brought into the city, lest the numbers of dead bodies should intimidate the people; they armed their freedmen, a step never taken, but in cases of the greatest emergency. At length, obliged to divide the allies, they granted to those, who had not appeared in arms, the freedom of the city; by this stroke of policy did they confirm the wavering, give hopes to those who had declared against them, of obtaining the same, loosened the ties of the confederacy, and blunted, in a great measure, the edge of animosity. From the day on which the Julian Law was passed (called so from Sextus Julius Cæsar, who enacted it) the arms of the republick were more prosperous. However, the war continued even under these circumstances of disjunction, so unfavourable to the allies, until they carried their point; and all the Italian states, the Lucanians and Samnites themselves, names hateful, and let me add, terrible to the Romans, were at length admitted to their freedom.

Thus

Thus, my Lord, does it appear how fatal the pride, the avarice, the ambition, the arrogance of Rome, had nearly proved to the very being of their commonwealth ; how an affectation of being select, how a disdain to mix, to incorporate with their countrymen, and thereby to strengthen the whole, had almost produced a total obliteration of the Roman name ; and how Rome, by disregarding these ends of conquests, for which I have before contended, by endeavouring to engross all, were put to the utmost stretch of policy to secure any. If the Romans had frankly shared their privileges with the allies, upon the footing they afterwards granted them, had they done it with an air of good-will, then would they have avoided this dreadful war ; and the new citizens entertain no distinction in their minds between themselves and the old citizens, they would have considered the riches, the splendor, the glory of Rome as their own ; they would feel her misfortunes, and rejoice in her prosperity ; and they would have maintained a superiority in the love, gratitude, and respect of the new citizens, though not by the laws and constitution : in short, the allies would suffer Rome to govern, but not admit her right of doing so. But the very bad grace with which these immunities were ceded, extorted as it were by force, a series of indignities ; such as turning them out of the city during
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the time of elections, with the strongest expressions of contempt, had so disgusted these high-spirited people, and so alienated their hearts from their fellow citizens, that we behold them ever afterwards stimulated by a remembrance of such severe treatment, to give their votes against the Patrician party, whether in the right or in the wrong, and forced into the arms of every ambitious disturber of the public tranquillity. I will admit, that the party of whom I now speak, did in the end, by supporting Cæsar, rivet the chains of Roman slavery; yet must it be insisted upon, that the proud Patrician did kindle and blow up that fire in which these chains were forged; they who should have wisdom to foresee the bad effects of injuring a brave people, in whom moderation should have been a check upon avarice and insolence, whose sagacity should have pointed out to them, how unreasonable that they alone should share the conquered lands, and enjoy the spoils of a plundered world. Men who would not see these things, could not with reason complain, if those who suffered this unjust exclusion from their immunities and rights, were not so philosophically temperate, as to be always in an humour to forgive and reject every preferred occasion of being revenged. Who, my Lord, should be wise in a country, if that body of men are not so, whose fortunes, whose stations, furnish lei-

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sure,

sure, with all the other means of acquiring useful knowledge, and of improving their natural talents to the utmost perfection of which they are capable? To what end the difference of wealth and power between them, and any other two legged animal in the community? Why that difference maintained by this community, unless for the good of the whole? God never gives so unequally for the possessor's sake; he designs this inequality as the root from which that subordination springs, which is to produce publick convenience and tranquility. Should not then these men, in whose power it is so happily placed to subdue their passions and refine their natures, avoid every occasion of raising animosity and disgust in the minds of their countrymen? Should it not be rather their glory to bear with their intemperance? This surely is more commendable, than to practise upon their weakness, wanton in their misfortunes, and instead of lightening, add to that burthen, which their superiority must always lay upon a people whose labour and industry must support it.

The Italian allies were never wanting in respect to Rome; even when brought to the lowest extremity by Annibal, very few of them having joined the Carthaginians from choice; Capua, indeed, so naturally disposed to vice, that she outran her mistress by at least a century in the race of corruption.

tion. She it is true most cordially went over to the enemy; but in general, considering the great distresses of the commonwealth, the faith of the allies was wonderful; and tho' keeping pace with Rome in all her conquests, such was their modesty, as never to think themselves on a level with that metropolis, until her citizens were fallen from virtue. They acknowledged her superiority, till she no longer knew how to govern herself; and when the states of Italy had arrived at an equal perfection with the Romans in arts, in sciences, in arms; when their manners were the same, their ideas of liberty as enlarged; when their language yielded not to that of Rome, except, perhaps, in smartness of pronunciation, or some quaint turn of phrase; when their strength of numbers to be employed in extending their conquests, or securing those already made, were by no means inferior; why should they not be admitted to a share of government? Why not enjoy the fruits of their toil and hazard? Why not be intrusted with the care of Italy, of their own liberties and properties? It is not from being born within the same narrow district that the identity of country arises? Country, in the great sense of the word, admits no limitation from extent of territory, or number; none but want of contiguity, want of a similitude of manners, interests, and objects of happiness.

pinefs impose ; for thefe are wants which
 may caufe an unweildinefs in exercifing the
 members of the political body; to feel for
 the fafety, the profperity, the glory and li-
 berty of the fame country, is what confti-
 tutes us countrymen and fellow citizens :
 the fafety of the Roman name, its laws,
 its customs, wherever difperfed by colony, or
 otherwife, was the care of every Italian at
 the period I now fpeak of ; and he who
 had thefe warmly at heart, was furely en-
 titled to all the privileges of a Roman citi-
 zen. Had it been the evil fortune of Rome
 to have Carthage or Macedon to contend
 with, when they had fo unreaſonably pro-
 voked their allies; what a weight would
 thefe warlike nations have thrown into the
 fcale of the enemy; they would have felt as
 forely as Carthage did from the reſentment
 of their abſurd African neighbours. Hap-
 pily for them no combination was able, at
 that time, to ſtand before that plan of power
 which their virtuous anceftors had formed.
 The civilized part of the world, Aſia and
 Greece, were impatient of the yoke, but
 abject and enervated ; nor had the northern
 nations entered into theſe defensive affocia-
 tions, which ſoon becoming offensive ter-
 minated in the deſtruction of Roman tyran-
 ny. Europe was not at that time digeſted
 into ſtates, whoſe ſmaller policies bore a re-
 ſpect to the grand policy of the whole; it
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did not share one common military discipline as at present; nor was every country watchful and attentive to each movement of its neighbour; no compacts made for checking the growth and prosperity of any power which was hated or feared. Had that been the case, the Roman senate would never have given cause of complaint to their subjects; on the contrary, it would have grappled them closer by every endearment of friendship and affection; and altho' lost to virtue and sound policy, Rome would have regarded its present immediate interest and preservation, and never disobliged a people, whom nature, by proximity and other circumstances, had destined to be a part of themselves.

There are no historical corollaries more certain, than that all states, who have extended their empire by colony or conquest, and who are not disposed to unite these countries with themselves after a sufficient preparation, must employ governors in these countries whose every motion cannot be closely watched; that as the principal country comes to lose its virtues, an indifference, at least, about the interest of provinces must ensue.

That these governors are seldom troubled, with any inspection of their conduct, or any after-reckoning; because each leading man, expecting one time or other to exercise the
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same office, in order to secure himself against future punishment, will not establish a precedent against himself by condemning another : thus emancipated from fear, each governor improves in the abuse of power, until a system of abuse comes at length to be finished and entire ; and this is handed down as a rule of government to all who succeed to the office ; they wish not to amend the laws of the province, nor the manners of the natives ; they plunder the inhabitants under the cover of laws, to which by an artful delusion they are brought to give their assent ; for they enter into a composition with some of the principals of the country, who by a smooth address, and the sly arts of popularity, find means to glide into the easy confidence of the people ; and these, in consideration of a very trifling part of the spoil yielded to them by their haughty employer, undergo the drudgery of securing the rest to him.

Rome, the authority to which I shall ever recur in political reflections upon free states, (for to trace out the mind of man in the history of arbitrary governments, where each individual acts under constraint, would be to delineate the movements of the human body, from observations made upon convulsionaries.) Rome furnishes many instances of governors, prætors, proconsuls, who have scandalously pillaged the unhappy provinces
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committed to their charge ; and it abounds with instances of a shameful failure of justice, when these delinquents have been impeached by the deputies * from the provinces ; it was upon the acquittal of Cotta Salinator, and Manlius Aquileius himself by the senate, and this in direct contradiction to the strongest evidence of guilt, that the cognizance of the crimes of extortion, and others of a public nature, was transferred from the Patricians to the order of knights ; and tho' an institution of the younger Gracchus, yet do we find Cicero † lamenting the revival of this part of the senatorial jurisdiction, by Sylla. In such low estimation was the justice of a Roman Senate at that time ; and such an interest had Verres established by the force of gold, that if the zeal and great talent of Cicero had not so powerfully interfered, bribery, together with the prostitute eloquence of Hortensius, would

* If the people of Sicily had been represented in a general assembly, it is probable that Verres would have escaped unpunished, as his money might have procured him a majority in that assembly to sanctify his conduct ; but unfortunately for him, each city had its assembly and a power of remonstrating singly before a Roman Senate ; nor could such a wealthy, useful town as Manchester be precluded from justice by the vote of a corrupt representative of an old Sarum.

† *Judiciorum levitate ordo quoque alius ad res iudicandas requiritur. Oratio contra Cœcellium.*

would have procured him his own friend Cœcilius for his accuser, who was, without doubt, an accomplice in his villainies: so difficult is the task of keeping governors of provinces within the bounds of duty; so difficult to find a tribunal, whose integrity shall answer to so arduous a task! But when we consider how much further than the particular sufferings and discontents of the province, the certain bad effects of an unjust, rapacious conduct of the governors of provinces must be felt, our apprehensions for the safety of the principal country takes the alarm; when we consider that these governments afford the most plentiful sources of luxury; that the means of gratifying the ambition of private men, nay, that ambition itself has for the most part its origin, in elevating and habituating any member of a community to a kind of temporary dominion, as viceroy or procursul; when we reflect upon the number of bad subjects, of wicked destroyers, of public tranquillity or liberty, which has been made by a fatal exaltation of individuals in free states; we cannot hesitate one moment, in determining to suppress every necessity of raising a subject to a condition, in which he might believe himself a king; and to cut him off from any opportunity of amassing such superior wealth, as may, by bribes or evil example, enable him to debauch the morals,

and

and destroy the love of liberty in his fellow-citizens. It was not until Cæsar had been ten years at the head of legions in Gaul, that he disdained to bear a superior in the common-wealth; he never would have plunged into a debt of 170,000*l.* had he not the hopes of repairing his shattered fortunes by the plunder of some rich province; and without the plunder of his province he never would be able to bring over the tribes to his interest, and influence all elections; so far removed as he was from the scene of intrigue; and if it was not for the unmerited honours heaped upon Pompey, the scandalous adulation of the Patricians, and the amazing power conferred upon him in the war of the Pirates, he too might have endured an equal in the common-wealth. In short, my Lord, it requires, I am sure, something more than modern virtue to stand against the intoxication of power, to look with temperance upon great wealth, and not to apply that wealth, when occasion shall present, in obtaining an unconstitutional influence in a free state; it must then of consequence be the duty of legislature, to reduce the means of acquiring disproportionate wealth, or alarming power, which cannot be better effected, than by consolidating, as far as circumstances will admit, all the parts of an empire; this will supercede the necessity of many governors,

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who,

who, unable to reconcile themselves to that face of equality which liberty requires, are wonderfully zealous to work its total destruction ; and this palpable advantage must follow, that when the parts of an empire have all the same legislative as well as executive government, the intercourse between the head and the members will be more lively, and things will not pass thro' the medium of corrupt, indolent, or ignorant viceroys, where truth meets with many delays, and is oftentimes totally obstructed.

Contiguity of situation, or a strong likeness of manners and customs, one of which nature alone can furnish, the other attainable to by political industry and address ; either of these are so powerfully essential to union, that without one or the other, it is not supposed that union can possibly take place ; and when union has taken place, it never should be clogged by partial circumstances, but be as entire as possible ; otherwise it will be a cause of weakness, and not of strength. To apply these doctrines, first to the case of Scotland, from the accession of James the sixth of Scotland to the throne of England, until the solemn act of union. Scotland bore the same relation to England, that the states of Italy did to Rome, before the social war had produced a grant of the immunities of the city to these states, and altho' the British union was not obtained by
force

force as was that of Italy, yet the apprehensions (during a bloody war with France, a pretender to the British crown in being, strongly supported by the most enterprizing prince in Europe;) of those Highlanders whom Godolphin had armed, did certainly determine that minister to bring about an union, and thereby remove all danger from that quarter; so that neither the Italian nor British union was the effect of mutual good will; exclusive of other motives, we see convenience, present expediency, and several other causes interfere: be that as it will, the event having taken place, all measures for producing that likeness and cordiality, which is the strongest political band, should be pursued by every honest man; and to this we are warmly admonished by the example of Rome, where a want of affection between the new and old citizens threw the weight of the former into the scale of every corrupt party which arose in the state, and attached them, not to their country, but to a Marius, a Cinna, or a Cæsar.

Had the same gothick spirit prevailed, which made wars and conquests the sole end of taking up arms, then may it with injustice be said (however parradoxical it should appear) that Scotland, in a state of separation from England would be more useful than united as at present; for it would have kept

England alert, and attentive to war. The privileges enjoyed by the inhabitants of the marches, shewing how necessary their presence to guard our frontier against this war-like neighbour. But England, secured from the north-east by the declension of the Danish power; and having a barrier to the south, in its possessions upon the Continent; would have sunk into * indolence and effeminacy, had they no enemies within the island; and it is to their wars with the Scotch and Welch, that they owe the bravery and discipline of those armies, which throw such a lustre upon the reigns of our Edwards and Henries, by their glorious achievements in France. England, as well as all Europe, is very differently circumstanced from what they were in the days of our plantagenets; the spirit of our age is truly commercial; the advantages thence arising, are found to be more real and substantial than the glare, the tumult of conquest and triumph. War, from being considered as an end, is happily dwindled into the means; and nations, when they conquer, do it rather with an eye to reprisal or diversion, than with a design of retaining the conquest. Our great extent of coast,

* Is hostis velut natus ad continendam inter magnorum intervalla bellorum Romanis militarem disciplinam erat; nec deerat unquam cum iis vel materia belli, vel causa; quia propter domesticam inopiam vicinos agros incurfabant, Liv. lib. 39.

our luxuriant production of all the capital materials of trade, form a stronger commercial incentive than any of our neighbours can feel. If Scotland, then, instead of being united with us, stood connected with France by alliances founded in the early periods, upon reason and self-preservation, engaged by her interest to be ever ready in joining to reduce the strength of her formidable neighbour, she would be able most powerfully to divert our attention from manufactures, from exportations, and our navy; not having within herself many inducements to commerce, war would be her trade, as it is that of Germany; and it is evident from the great success of Prussia against the House of Austria, how small a number of inhabitants whose reigning passion is for war, may furnish matter of heavy embarrassment to a very numerous and wealthy people. Yet, sensible as I am of the great advantage it must be, both to Scotland and England, that their union should be close, cordial, free from all jarrings and jealousies as possible, still must I speak with freedom some thoughts which arise, not from want of a due regard to the merit of that country, but with a view to reduce pride, vanity, prejudice, or whatever else may obstruct that salutary scheme of close friendship, which is indisputably the interest of the whole island—First of all, I am far from considering that people, however

ever respectable the individuals may be for their prudence and personal bravery, in so principal a view as their own writers are pleased to do, and amongst the rest, the author of an extraordinary paper, dated at Edinburgh. Writers of the polemical class, feel a higher glow of imagination than can be uniformly consistent with strict truth; passion and party are apt to raise their colourings somewhat higher than any thing we behold in nature. Scotland, from its contracted territory, poverty of soil, and small number of inhabitants, was ever under the necessity of resorting to a foreign alliance, in order to procure to themselves, as a people, any degree of consequence: as an enemy, they must be looked upon, therefore, in a secondary light, they are not in the same rank with the Gaul and Carthaginian, but to the Samnite, may they with great justice be compared. Their alliances with Ireland, enabled them to disturb the ancient South Britons, and alarm the Romans when settled in this island. But, it is well known, that since the coming in of our Saxon ancestors, with the trifling number of 1600 men, to the aid of Vortigern, against the Picts, the Northern Britons*, never presumed to do more

* As to my purpose, it is quite indifferent whether the present Scotch, are a mix'd breed of Picts and Scotch, or whether the Picts were totally eradicated, since both were equally

more than peep into England, until the Norman conquest ; when the English, who were stripped of their estates by William the first, carried their discontents into Scotland, and encouraged that people to reassume their disorderly inroads into Northumberland. Our possessions upon the continent, fixed a kind of natural enemy in the king of France, to whom the Scotch very politically attached themselves, and drew from that source a consideration, to which they could not otherwise possibly attain ; and when we consider the English as a people compounded of Saxons and of Normans, descended on one side from nations who had destroyed the most powerful empire the world ever beheld, whose name alone was sufficient to retain the Pict within bounds ; and who so bravely withstood the Danish force, not the attacks of roving pirates, as is vulgarly supposed, but a steady, well conducted, invasive war, supported by the maritime powers who inhabited the northern coast of Europe, from the mouth of the Elbe, and so along both shores of the Baltick ; when we view them descended, on the other side, from Nor-

equally terrified by the Saxon power ; during some of the distractions of the heptarchy, they sometimes ventured into Northumberland ; and once leaguings with the South Britains, under their king Aidan, they were for a moment successful against Ceaulin king of Wessex. |

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mans, the conquerors of the finest provinces in France, and establishing kingdoms, at their will, through Europe; when we consider themselves the posterity of these celebrated nations, as the conquerors of all France, and arbiters of Europe, absurd and ridiculous must be that degree of vanity, which assumes any pretensions of superiority, in valour, or any other species of merit, over such a people.

But as to notions of civil liberty, for which that writer appears so much to have valued them, it is in that point, I think them principally defective: love of liberty does not entirely consist in resolving to maintain independency of a foreign power, there are many other essentials to a true love of liberty; because, a nation may be very free from any influence from abroad, and yet totally enslaved at home; the lords and leading men of such nation, may labour to guard their country against strangers, with no other design, but that of securing the benefit of its vassalage to themselves; so that publick spirit, may possibly have no concern whatsoever in any of their actions; and really, if any thing can sink the Scottish nation so low, as inaptitude for a compleat junction with England, it is the little relish they have ever shewn for the true blessings of liberty. He who would infer the contrary, from the resistance so often given to their

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their kings, would make the most fallacious inference in the world ; for many oppositions to kings, have proceeded from a partiality to the domination of the heads of clans, the worst species of slavery, and not from any desire of being free. Scotland has destroyed many of its kings, it is granted, but not with an eye to promote the cause of liberty ; let it appear, that the Scottish insurrection had ever any such tendency ; that they ever attempted to discharge, from the minds of the people, their slavish prejudices, or stupid adoration of their lairds, that they ever wished the blessing of liberty should extend to every individual who deserved it ; in short, that previous to the union, they ever seriously thought of destroying their heritable jurisdictions ; let these appear, and Scotland's claim to a love of liberty, shall, with her many other well-grounded claims to merit, be most willingly admitted.

Reasons may be drawn from the original formation of the Scottish government, why they have been particularly slow in their approaches to liberty ; but some observations upon government in general, and upon the difference between the old and more modern Celtick forms in particular, must necessarily be promised. The end of social association, is the preservation of those individuals who compose it ; in a state of nature, the preservation of single self is the

sole object; no regard to numbers or country, is supposed to countervail this first consideration; we, in that state, owe nothing to numbers or country, and nothing will we pay. But from the moment that a community is established, to self-defence, as a primary object*, that of a nation or aggregate of individuals is substituted; and it is not from the good of any particular, but from the good of the whole, that the rule of action must arise. In this state of society, the idea of preservation, from being more extended, becomes more complicated and difficult; and to those who do not seriously attend to the ends of government, and the substitution of that general good which has taken place, to the particular good which before prevailed; single self-preservation, is ever pressing upon their minds; and cases frequently arise, where partiality to self, and inattention to publick order and convenience, hinder us from acquiescing, but with reluctance and dissatisfaction, under the most wholesome regulations. In general, the reasonableness of giving up our private opinion, though we should sustain a damage, is pretty apparent; but some particular incidents there must be, where it is not so apparent; for instance, where the dignity of the executive

* For though self-preservation is the first law of nature, it is not so of society.

power of a state, seems not to consist with the civil liberty of the subject; here the wisdom and penetration of the expounders of law is called forth; here the arduous task of securing a part from suffering, without endangering the whole; and the important question comes into agitation; Whether the luxuriances of liberty, wild and beautiful as they appear, but often pernicious to the fruit of good government, shall be lopped and kept under? Or whether too great a hazard of destroying the stock, may not ensue the operation, and some abuses of liberty be more prudently submitted to, than measures taken, by which its entire ruin, even by the most remote possibility, may be incurred? This last, is certainly the spirit of our law, and it places liberty amongst those things which it is most inclined to favour, looking upon it with a fond parental eye, as that darling child, to whose advantage every presumption is admitted, every construction made, rather than see it so culpable, as to merit a correction which may by any means injure its beloved frame. That form therefore of government, which provides most effectually for the liberty of the individual, without weakening the strength of the magistrate; that form which secures the greatest number, or proportion, of its subjects against internal oppression, as well as external violence, is undoubtedly the best, be-

cause it establishes order and safety, the great ends for which we enter into a state of society, at the expence of a very moderate share of that liberty, which we enjoy in a state of nature ; and confers great social advantages, while it deprives us of very few natural ones. No liberty whatsoever can compensate the want of security in a state of nature ; the hourly apprehensions of superior force ; the inquietudes, which are the perpetual attendants upon fear ; defence must be small, because every man rests his reservation upon his own powers ; hence, we behold savages always improving their bodily strength, increasing their agility, acquiring the greatest possible degree of swiftness, and practising patience under labour and fatigue ; inasmuch, that the American Aborigines, are said almost to fly over continents, lie whole nights in snow, and perform such feats as seem almost incredible ; relying on single self for their preservation. With regard to parental government, this, as it is extremely defective in point of defence, however mild and gentle it may be, from the affectionate relation between the governor and governed, being his offspring, so is it little to my present purpose ; I shall, therefore, pass to those Celtic forms, which furnish the original materials of all the European constitutions. There are distinguished in history, two grand emigrations of those
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northern people, whom all writers agree to be Celtic; and each emigration made an attack upon the Roman empire; in the first, they were at length repulsed; in the latter, they succeeded, and laid the foundation of all the European kingdoms as above. The first adventurers, obliged at length to abandon Italy, spread themselves over Gaul, the northern parts of Spain, Britain, and very probably made some settlements in Ireland. They left their mother country possessed with the same spirit of conquest, which actuated the Goths, Vandals, Alans, &c. and the necessity of acquiring a settlement, (there being no room, as is supposed, for them at home) established a strict discipline and due subordination; a respect to one superior, kept every small chief to his duty, and prevented those broils and dissensions, which ever since the siege of Troy, have retarded the progress of great enterprizes, where they have been suffered to interfere. But, my Lord, why the Goths, Vandals, &c. had the good fortune to establish more excellent, and for that reason, more permanent governments, than the conquerors of the more early period, may appear from a consideration of the great difference in the circumstances of the invaded nations at the different periods. The last emigrants fell upon the south of Europe, at a time when the Roman laws, institutions, arts and sciences,

ces, had universally taken place ; and altho' they conquered, yet, had they much to apprehend from a people who were in possession of that discipline, which had subdued the world. In some countries, their conquests were so imperfect, that they were constrained to a composition with the inhabitants, and to take but part of their lands, and part of their slaves ; they were, for this reason, obliged to have a watchful eye upon enemies so respectable, and adhere to those principles of policy, which they brought from their own country. Hence, those powerful mixed monarchies which we have since beheld in Europe ; some few flourishing and vigorous, at the time others languid, declining, and scarce discoverable to be of the Gothick kind. The more early Celtes, met with a different reception when they marched to the southward ; for Roman virtue having forced them over the Alps, they fell upon nations who afforded them an easy conquest ; and for whom, the facility of the conquest, must inspire them with contempt ; they soon became easy, indolent, and secure ; lost sight of their ancient institutions ; no regard to a general interest ; each petty leader pursuing a selfish, narrow plan ; and hence the imperfection of these governments, which Cæsar and Tacitus describe, both in Gaul and Britain. Nations, whose want of political cement, rather than of weight or numbers,

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was the cause why they were immediately overturned by the Roman armies ; whom, even their enemies allow to have been brave, but divided into such little states, that these divisions, and the want of a more comprehensive band of union, did certainly produce their ruin. There can be no doubt, but the Scotch government is derived from the Celtic confined fountain, and has drawn from thence, the many imperfections with which it abounds ; their leaders of clans, the unnatural distinction between people of one sept, from those of another, yet both living in the same country ; the cruel animosity between these different septs ; (so cruel, that instances have appeared, where but one man alone, out of a name consisting of 2000, has survived the rage of the adverse clan, and all this to gratify the paltry ambition of the head of a family) These, I say, proclaim the greatest want of that sound policy, and good sense, which consults the quiet, the happiness, but above all, the external defence of the individuals committed to its charge. I, my Lord, wish from my heart, because I think it the advantage of human nature, that no distinction subsisted, if possible, between the nations of the earth ; but from a country which is united to ours, I am impatient to see every dissimilitude removed, which may obstruct our end. Impatient to see the Scottish laws approach nearer to the spirit of our laws,

laws, and to that spirit which their ancestors brought from Scandinavia, but afterwards suffered to evaporate, as I observed before. I wish to see our jury law, and whatever laws have any relation to the liberty and property of the subject, better relished by our neighbours; and our common law, enjoy that preference which it deserves, to the arbitrary edicts of Roman tyrants: then should we see ministers of that nation free from any bias to arbitrary power; and judges, who scorning to be tools of despotism, in justice, temper and popularity, should emulate an Holt or a Camden.

As I write without any design of lowering that brave and prudent people in the estimation of their neighbours, and my structure being on the government, and not the individuals, I hope I shall stand acquitted of any view, but that of reducing their prejudices in favour of any systems, which may prevent that assimilation with England, for which I have contended. Let Scotland discern, acknowledge and imitate, where England is confessedly her superior; it derogates not from the merit of any single person of the nation, to make the concession, for it was time, circumstance, situation, which have conferred the superiority: let England value not itself too much upon this accidental superiority; nor despise their northern fellow subjects, for being inferior as a people,

people, whilst as individuals, they are incontestably their equals ; and, let them consider, that the lesser merit they allow the Scotch, the more it is the business of the Scotch, as a brave and spirited nation, to claim and insist upon.

Ireland, my Lord, from the circumstance of separation from Great-Britain, seems at first view, to want that contiguity, which is, with justice, placed amongst the essentials of union ; but Ireland has every other essential, and though not actually joined to this island, is so virtually and in effect ; it enjoys very near the same climate, and the genius of its inhabitants bear as near a resemblance to that of the natives of this country, as the confused, undefinable form of government under which they have lived, will admit. But what should induce us most powerfully of all to bestow upon it that attention which union alone can create, is, that Ireland, in the possession of some neighbouring powers, would cause a disadvantage of double its own intrinsic positive value to us ; the human species has there a most strong tendency to multiplication ; the men are brave, hardy and robust ; the soil fruitful to an uncommon degree ; and its harbours commodious, in every sense of the word. Conceive then, my Lord, the fatal consequence of so injudicious a treatment of that country, as absolutely lose all the benefits which may arise

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from it, of slackening the duty and love it is disposed to entertain for England. Conceive, my Lord, such a country in the possession of an enterprizing French or Spanish monarch, who would behold his interest in strengthening, in cherishing, and laying it as a continual check upon Great-Britain; how much of our regards must be diverted from other concerns, by so respectable a neighbourhood; when these are considered, with the great additional strength which that country must bring to our own, as a part of one well proportioned body; the objection of the want of contiguity immediately vanishes, and we see Ireland joined to Great-Britain by a firm political isthmus.

From the closest inspection I have been able to make into human nature, such as it appears in perusing the history of nations, or in observing the actions of cotemporary individuals (I speak of man, modified as he is by the laws, and education of the particular society, of which he is a member, not as he comes out of the hands of a beneficent Creator.) It is very discoverable, that he is an animal, in whom love* of self does so strongly predominate, as to make it very necessary,

* My opinion will not appear morally heterodox, being no more than that man is created with the proper size of self-love, which naturally seeks his preservation, but that bad example, bad education, and the artificial necessities

cessary, that this ungenerous principle be counteracted by some power, which should have also this same self-love for its source. Man, were it not for the dread of law, would think himself very excusable in seizing upon more of the goods of this world, than by the present social methods of acquiring property, should come to his share; the fear of punishment constantly interposes, and moderation, by degrees, becomes habitual. In communities, then, man finds a check upon his desires in the laws, but, when we enlarge our view to the whole world, as a great aggregate of various communities; each community of which, may be compared to an individual; where are we to look for the means of controuling, of bounding, the combined passions of the multitudes which form each community? How produce moderation? How curb that ambition in the tyrants of those communities, which has so frequently desolated the human species? If we, perchance, behold national moderation from peculiar form of government, or what other cause soever, prevail in one country, so far from being its security, that country is thereby exposed to the invasion of some perfidious neighbour; the law of nations is re-

necessities in a state of society, blow it up to an enormous bulk, which would be pernicious, did not the laws of that society suppress, what its bad education had given rise to.

curred to, but in vain ; a municipal law, the magistrate can execute ; but to put the law of nations in force, against an unruly state, the concurrence of many powers is necessary ; this may be prevented by too strict a regard to private interest, at least it may be delayed ; during that delay towns are destroyed, provinces seized ; the aggressing power takes such a hold, as may support him through a ten years war ; at the end of which, want of union, want of honesty, in some or all of these powers, who are solemnly confederated to chastize him, he has the good fortune to escape with impunity the correction : therefore, which should follow a breach of the law of nations, is not sufficiently certain to deter the wicked and the ambitious in the present system of Europe. The plan, said to have been levied by Henry the Great of France, was laudable in design, but impossible, I think, in execution ; he intended to bring the joint powers of Europe, who seem to have interests the most opposite, as near as possible to an equality ; that any of those nations who constituted these two general divisions, may receive protection from their own party ; when those on the other side, endeavoured to oppress them ; but neither he nor any else could ascertain, whose interests were to be the clashing ones. It was not those of religion, for we see the Protestant religion, every regard to honour, gratitude, and

and its own real advantage, sacrificed by a once considerable maritime power, to a narrow, private scheme of commercial, selfish politicks. Austria and Bourbon were not to be the contending family interests, for we now find them most closely, and as we are pleased to call it, most unnaturally connected. In matters, therefore, so fluctuating, it was impossible to foresee where, or between whom the contention should be. If Henry could have ensured one particular state, powerful, and yet honest enough always to afford succour to the injured, then would he have succeeded. Is not the ban of the empire often unjustly arrayed? And is it not as often laugh'd at by those who are able to oppose it? I fear, my Lord, that human systems are not so capable of perfection, as we, from our partiality to the framers, are inclined to believe them; but especially when the means of execution are so complicated, as in the present case; and that, therefore, the most simple expedient, for preserving as general quiet, as the passions and frailties of men can possibly admit, will be, for every state to endeavour at strengthening itself, which will make neighbouring powers, for their own sakes, and the love they entertain for themselves, beware of violating the law of nations; fear of each other, will prevent repeated hostilities, prejudices, which we observe to subsist most strongly between
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those who are frequently at war with each other, will languish and die away, and neighbouring countries, instead of hating, and seeking each others misery, will love and study to promote their mutual happiness; so will fear, and an apprehension of offending by slow, imperceptible degrees, bring a people first to bear with its neighbour, then to esteem, and perhaps, in the end, to treat it with cordiality and affection.

I, therefore, must applaud the wisdom of those, who endeavour to multiply virtuous industrious inhabitants, upon such a part of the earth's surface, as may be sufficiently extensive to form a nation powerful and respectable, equal to the defence of itself against injury, and able to succour a distressed neighbour, in case of any violence, which may put the common safety in danger: but should equity and moderation be the acknowledged characteristicks of that nation; should all the materials for such a work be, as it were, already provided by the hand of Providence, and nothing wanting but a proper political combination of them; it is, doubtless, under a double obligation of strengthening itself, because human nature, in general, is deeply interested in the safety, in the influence and power of such a people; the small territory which may be drawn into such a community, cannot, with any justice, complain of being stripped of their despicable

ble pretensions to independency ; when, in reality, they are freed from the tyranny of some proud beggarly duke or count, from the oppression of some paultry republick, and made members of a state, where every man's rights are secured; of a state, which is able to maintain real independency ; nor can any thing be more evident, than its being for the interest of all Europe, that no petty sovereignty whatsoever did exist ; a temptation to every ambitious neighbour, a cause of frequent disturbance, and a kind of constraint upon those, who are peaceably disposed to live in perpetual alarms*.

The provinces of France afford a strong example, how distracted, how miserable that country has been, from the death of Charlemagne until Richlieu's administration, occasioned by the power and influence of the great vassals of the crown ? Was Provence so happy under her counts ; Normandy, Burgundy, Guienne or Britainy, under their Dukes, as they have been since the monarchy was formed ? What substantial satisfaction, could the consideration of being ruled by one of their own country ; the vanity and parade of a petty court, whose retainers devoured the people ; afford for the miseries to which the follies and injustice of their masters did every

* Quia inter impotentes et validos falso quiescas.
Tacit. de Mor. Ger.

day expose them? And how can the French, with any justice, say they have lost their liberties, because their peers have lost a dangerous power? And are a people free, because the great lords are able, upon any trifling occasion, to rise up in rebellion against their king? I rather believe their slavery more desperate and deplorable. The French, probably, never understood what real liberty is; for he, who would restrain the enjoyment of it to any particular order of men, and not suffer its blessings to extend through all the virtuous members of the community, mistakes the import of the word. I must, therefore, approve the political wisdom of the French, for taking in those provinces, which seem formed by nature to coincide with their monarchy; the sameness of language, of manners, of customs, encouraging, and facilitating their designs; and do think, the accomplishment was for the general happiness of those provinces, without enquiring what right one nation has to make another happy against its will. But, when we behold the ministers or tyrants of France, so iniquitously abusing their great increase of power, by extending their conquests and influence beyond the limits which nature seemed to prescribe; and instead of applying that power to strengthen and secure the quiet of Europe, exerting it on the contrary, in disturbing and destroying it: we then, indeed,

indeed, must lament their greatness, and express our sorrow for that want of rational liberty, and pure religion, which would, undoubtedly, have produced equity and moderation in the councils of that great monarchy.

The general expediency indeed, necessity of compact, and powerful social associations, being admitted, the union of Ireland with Great-Britain appears easy and natural, liable to no jealousies of neighbouring states, because, the sovereignty of Great-Britain over that island is universally allowed abroad; and that we have always been of that opinion at home, appears, from having constantly exercised it, where the object has been of such moment, as to affect the interest of both kingdoms; such as superintending their legislature, and taking from their peers a dernier judicial power, lest there should be a failure of justice, and depopulation ensue in any part of his Majesty's dominions; and that the leading men of that island are sensible of that dependancy is clear, from their submitting, the very moment it seems to answer their own private interests, and small ambition, after having blushed, perhaps, for one short session, and sorely calumniated some poor, timid, unpopular secretary of their Lord Lieutenant. Nothing is, therefore, more sincerely desired, than that England should look narrowly into

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the affairs of that country; that it should consider them, in some respect, as their own affairs, and take the proper steps for bringing the people to a temper for mixing with themselves, which having left them so much in their own management, has hitherto prevented; nor is it surprizing, that the gentlemen who constitute the two legislative branches of that kingdom, should be incapable of moulding their countrymen to the form we require; their scheme of government, and political ideas, are contracted, confined to raising such supplies as their governors shall demand, establishing turnpikes, and enacting laws against the growth of Popery; debates upon the general interests of Europe, upon the improvements of commerce, the prerogative of the crown, or the rights and liberties of the people, are never heard within their walls — they never aspired to the blessings of an habeas corpus act, the strongest proof how small their desire of liberty; carrying with it, at the same time, the implied consciousness of how little they deserve it: then, can it be expected from those, to inspire the Irish with sentiments, which may entitle them to unite with the freest, wisest, and most powerful people in Europe? The landed property of Ireland is, at this time, vested in the descendants of English or Scotch for the most part, or held under titles derived from them; the adventurers of Elizabeth,

beth, and those of the long parliament, being, in truth, the conquerors * of that kingdom, and the purchasers of those estates which their posterity now enjoy. The gentlemen of that nation, are therefore sprung from a warlike ancestry, whose blood and t—— were expended in subduing, and endeavouring to civilize that country which they now possess; and although both from right and convenience, Ireland is, and ought to be subordinate to England, yet, has an Irish individual as indisputable a right to liberty and property, as an Englishman; for why should not the grandson or great grandson of an Englishman, who left his native country to fight for the glory and advantage of England, and by his valour and perseverance established a property for himself and family, be looked upon as inferior to the grandson or great grandson of an Englishman, who chose to remain at home? No, my Lord, the superiority is of the aggregate, not of the individual; it is admitted in one case, because it is for the good of the whole; it is rejected in the other case, because it is quite unnecessary; and all the gentlemen of Ire-

* As for the conquerors of the more early periods; their descendants were soon degenerate, so attached to the Irish manners, so estranged from those of their English ancestry, that there was a necessity of conquering them with the old Irish, particularly as they were infected with the same prejudices against the reformation.

land have the merit of being descended from a brave and free ancestry. I must declare, that no people, to whom so many advantages have been presented by circumstances most favourable, did ever so little avail themselves of them. England offers to their acceptance, the most excellent code of laws that was ever framed by any nation; the mildest and most rational religion; the soundest maxims of commerce, and the best instructions for the improvement of manufactures: it has afforded them a wholesome example of a strict execution of the laws, and most of these proffered kindnesses. It is as certain, that the Irish reject such laws as relate to inheritance, being originally interwoven with our military feudal tenures, which took place upon the first English settlement in the island, but subject to the 12th of Charles the Second, are the same as in England; so are those which relate to personal property; the institutions which have for their object the manners and principles of the people, independent of religion, are also English, but these lie dead and unexecuted; those which relate to religion, are mostly enacted by themselves, and are absurd, unnatural, and shocking to humanity, I mean the modern Popery laws, which tend to the discouragement of that sect by forfeiture of property; they are dictated by a spirit of uncharitableness, which never entered

tered into the laws of England, for these are remarkable for their lenity and precision, dictated by a spirit, which instead of diffusing benevolence amongst the members of a community, destroys all confidence between man and man, and blasts every bud of honour and virtue; these are executed by bills of discovery, where breach of faith between neighbours, breach of honour between gentlemen, dissolution of the ties of blood between relations, are rewarded with the property of the person against whom the bill is brought. In England, the nature of a penal law is understood, and it is a rule that the words of it, are neither to be extended or restricted by construction; the framers of these laws, which have for their object actions not criminal in their own nature, or as the lawyers say, *mala in se*, but only made criminal as they interfere with the policy of the state, enumerate the several cases of transgression, awaken and collect the subjects attention, point it to the thing which is to be avoided, and leave it not in the power of a judge to say, that this, or that, was intended by the statute, although not particularly expressed; nor shall the liberty of any man be taken a way by implication in matters which are morally indifferent. But the Popery laws of Ireland are monsters, some call them penal, others remedial, and all admit, that judges can give them a construction,
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by which their determinations may be at least arbitrary, and the people of that religion left in the greatest confusion and uncertainty. Your Lordship sees how great an enemy to reformation of every kind, how radically destructive of all virtue, both publick and private, must be that body of laws, which lets loose, nay, encourages one part of his Majesty's subjects to prey upon the other; how should union or brotherly love subsist, where legislature is perpetually sounding the trumpet of discord? How void of sound policy these institutions, which destroy the morals of a people under colour of reforming the religion? That branch of the Popery laws which are transcribed from the English code, are conceived in a spirit of simplicity and good sense; avarice was not the blemish of the age which produced them; they do not strip the unfortunate, misguided, innocent people of their properties, because drawn into errors by priests; connived at by magistrates, whose duty it is to restrain their religious doctrines and discipline; they may be executed by justices of the peace; no lawyers necessary, no bills of discovery, no profits immediately arising to any particular individual, by the execution of these laws; it is religion and the constitution which are to receive the advantage, for which reason they are seldom put in force; and since the Popish religion is detrimental to the kingdom, the
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rigorous measures necessary for its extirpation should be felt, by those who cause the delusion, not by the unfortunate deluded; it is the mountebank, vagabond, impostor, who should be punished, and not the simple, credulous people; so that instead of laws which destroy all confidence, and produce rancour and malevolence between fellow-subjects, the wicked, self-interested propagators, the sly smugglers of the religion into that unfortunate kingdom, should be the object of our indignation. England perfected her reformation by expelling Popish priests, so did the northern states, but Ireland expects, by a scandalous persecution, to compel a bigotted multitude to reform itself, and drive out a set of men who have now gained a firm establishment in their affections and esteem, and who, I venture to say, have a greater ascendant over their hearts and consciences, than the most powerful head of a sept could possibly enjoy: nor can I see, how the expulsion of priests could fail of success in Ireland; the Romish superstition is so contrary to common sense, to christian charity, to the general interests of the human species, that the closest application to the mind, in its circumstances of early, indeed almost infantine weakness, is necessary to give it root there, the greatest assiduity is required to rear it, but once confirmed, like every other noxious weed, is with great difficulty destroyed; we, there-

therefore, perceive these dangerous missionaries, initiating their youth as early as possible in their senseless mysteries, well knowing, that an understanding, strengthened by reason, must start at their absurdities, and reject them with disdain ; so that if the laws were executed, which would remove these men from the opportunity of practising upon the pliant faith of young people ; free and untainted, they would readily embrace a religion founded on reason and universal charity ; nor can these Romish ecclesiasticks complain of persecution, having felt no effect of the laws enacted against them, almost for an age ; they see and study those laws against the exercise of Papal jurisdiction, and yet, such is their matchless effrontery, as to hold them at constant defiance ; they are almost to a man, ill-bred, low-born wretches, but ever pretending to the gentleman, because descended from servants and retainers in respectable families, they have impudently assumed their names ; their learning amounts to little more than a base unclassical smattering in the Latin tongue, which enables them to blunder over their masses, the rudiments received under an Irish hedge, and farther cultivated at some starved French seminary, in return for which scanty charity of his Most Christian Majesty, they import into the dominions of his enemy, the seeds of rebellion, and a total abhorrence
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from the free spirit of the English laws and government. What just cause of clamour could exist, if his Majesty appointed a subsistence in a foreign country, barely sufficient to keep them from labour during their lives, subject to this condition, that they never *return to a kingdom where it is most certain they cannot live without* tampering with *consciences*? This is a mild expedient for getting rid of a sect, which, for two centuries, has checkt the progress of all improvement, and frequently involved that island in wars and tumults, by invariably adhering to the side of superstition and tyranny; and I most heartily wish to see this method substituted to the punishment of the innocent, and to the infliction of severities upon the many, when proper castigation of a few would better answer the purpose; but I fear the landed interest of Ireland do not disapprove a policy, which keeps the posterity of the men whose forfeited estates they enjoy, in a state of misery and distraction, and that, too poignant a remembrance of the cruelties of the Irish Papists to their ancestors, inclines them rather to oppress and enslave the descendants of that people, than endeavour seriously to reform, mix with them in brotherly love, and be joined as fellow-subjects by the ties of social affection.

I well know, that the danger of Popery, has been treated as a bugbear by several on
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this side the water, especially by men, whose bias to arbitrary principles of government, prevents their seeing any danger in a sect, whose political opinions are the same with their own; they feel not the inconveniencies that attend it, and are ignorant of the frightful effects of that superstition, both here and in Ireland; their information not exceeding some few facts which have happened in their own time, stands totally unaided, not only by books, but even tradition from their parents; they consider the toasting of memories by the Irish Protestants, as having a tendency to divide the people, and keep ancient animosities still alive; and it is certain, that a late high mettled secretary to a Lord Lieutenant, had the impudence to pronounce a declamation to that purpose in the House of Commons of that kingdom, penned, as it is supposed, by a remarkable stile mimick, from whom that suborator seems to have received his impressions of Irish affairs, and indeed, of politicks in general; had he delivered his indirect sarcasms upon the memory of William the Third, as the opinion of himself or his instructor; no man who had the least knowledge of either, would have felt any surprise; but an insinuation of its being the sense of the people of England, that the Irish should forget the obligations they owe to the glorious revolution, that they should omit any thing which may preserve it fresh in their memories,

memories, that they should lose recollection of what their ancestors suffered by Popery, from the time of Desmond's rebellion to the capitulation of Limerick, or lose sight of any measures which humanity will admit, of disabling Popery, from making any attempts for the future, was, doubtless, the highest degree of presumption, that any declaimer ever arrived at: England, on the contrary, is well apprized of the undying rancour of that religion, and the almost irresistible dissimulation of its chiefs; how coolly and systematically they proceed in bringing about their ends, how unrelenting when possessed of any power over their adversaries; that the interests of Protestantism are neither so closely, nor uniformly pursued; that its professors are divided by not acting under one common head; not agreeing entirely either as to doctrine or discipline; in short, that they are too indifferent about a religion, which having reason on its side, they look upon very able to support itself, and do, therefore, applaud their Irish fellow-subjects for their caution. It is a strong argument against suffering Popery to continue in Ireland, that the progress of every good thing is thereby most amazingly retarded; arts and manufactures are born down by the laziness and want of decent œconomy, which forms the indelible character of that religion, except in France, where the natural vivacity

of the people does, in some measure, check its pernicious tendency ; but a much stronger it is, that government, that the constitution is particularly affected by the evils which thence ensue, nor can it partake of the free spirit of English government, altho' the body and members are precisely the same ; the people, like those of England, share in the legislature, by sending representatives to parliament ; but to a true constitutional representation, a strong relation between the constituent and the constituted is absolutely necessary, in order to retain the representative within the bounds of duty, and oblige him to hold it ever in remembrance, that he is sent to parliament, not for his own private advantage, but for that of the publick ; the more considerable the number of electors, the more respectable must they be in the eyes of the elected, and the more cautious will the latter be of neglecting or betraying their cause : but whilst the Popish religion prevails, as to numbers, the body of the people are not represented, the individuals of that persuasion, lying to a man, under a legal disability of voting at elections ; members are sent up to parliament by a few Protestant freeholders, so few, as to challenge very little respect in the eyes of men, whose seats in the house have no certain limitation of time, and these so easily managed, that it is very doubtful, whether the scandalous
neglect

neglect of propagating true religion, which has appeared in the leading men of that kingdom, has not proceeded from a notion that the diffusion of it through the people, would give them such a weight and authority, as may exact a greater attention from those who have occasion for their favour, than has been hitherto found necessary; and it is not improbable, that a consideration how much the emoluments of a free trade in Ireland, must be enjoyed by a body of men, who are natural enemies to liberty and the present family, may furnish motives to England, and for ought I can see, very reasonable ones, for continuing that kingdom under its present commercial restraints.

Since then, it is evident, that the gentlemen of Ireland, either through a want of proper training to a more extensive plan of politicks, or from too close attention to their present apparent interests, shew a reluctance in advancing their native country to such a stage towards perfection, as may bring it to be of greater use in the general scheme. It is most incumbent upon England, from a principle of self-preservation, to observe it more attentively, as a quarter, by which, in case of neglect, they are likely to receive a most deadly blow *.

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* Probably no part of Roman policy was more liable to censure, than their omitting to unite Sicily with Italy, they

The constitution of Great Britain has, from causes very obvious, taken since the revolution a dangerous turn to aristocracy, in-somuch, that it is amazing to hear authors of high reputation complain of its tendency to democracy; the House of Commons, it is true, are supposed to hold the strings of the national purse: but the majority of that house, is certainly formed of men, recommended in counties, but principally in boroughs, by lords; if they are therefore septennially created to represent the people by the lords, their political opinions and conduct, must depend upon those who create them; the lower house is lost in the upper, and far from being distinct branches of legislature, they are virtually, altho' not yet nominally, the same; was not this the case, all places of trust and profit would not be possessed by lords, their relations and dependants: neither as to capacity or industry, can they claim any superiority; and his Majesty would not be less respectfully served, by men who stood singly on their personal merit and loyalty, than by those who are inflated by their own power, or by the consequence and power of those who recom-

they would have thereby taken from many bad citizens an opportunity of becoming rich, and prevented the dreadful insurrections of their slaves, which lawless oppression of the wealthy landed interest of the island did occasion.

mend

mend them ; but the general bad effects of this evil, being not immediately to my purpose, let us see how prejudicial it has proved to the interests of the country I speak of. The Lieutenancy of Ireland, is consigned of late years, to persons of the first rank and title only, and altho' an office upon which depends the advancement of arts, the reformation of religion, and the establishment of government in that kingdom ; yet, to the carrying forward of these really important works, the super-intendancy of a Lord Lieutenant cannot be obtained for more than six months out of twenty-four ; some, indeed, condescend to go over a second time ; some, out of a consciousness of misbehaviour, are afraid to venture, and yet their impatience to continue there, does not proceed from any dislike to the profits of the employment, as they press most eagerly at home for every lucrative one, nor from a desire of avoiding the fatigues of a court, for their ambition discloses itself, in the encouragement given to their own little levies at their respective palaces in Westminster, where their dependants pay a constant attendance ; nor from an apprehension of losing the royal favour during absence, like the unfortunate Essex, but it proceeds from their apprehension of losing their English voters in the house, and at elections for members and magistrates ; so that were it possible to confine the nobility
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to the constitutional range which the law prescribes, a double advantage would thence arise to Ireland ; the presence of those noble personages appointed by his Majesty to be their guardians and protectors against domestick oppression, and that the younger sons of the gentlemen of the kingdom, would then enjoy a more reasonable proportion of the employments, military, civil and ecclesiastick, which their country so plentifully maintains, than they can in the present situation of affairs, whilst their governors are obliged to bestow them upon their English dependants, whose friends and relations have engaged in supporting their parliamentary influence at home : and here your Lordship sees a great part of the wealth of one island, directed to the ruin of the liberties of the other——But to proceed, if the chief governor was to continue in the kingdom, he might be at leisure to make progresses, see whether the people were governed or oppressed, and what was the true and general sense of the nation ; he would there behold the Protestant religion expiring thro' the laziness of our priests, and an unwearied application in those of the enemy ; the internal rule of the kingdom or its police, by which the manners of a people are principally formed, intrusted to magistrates, whose only recommendation is a blind obedience to the will of those, who enjoy the derivative power

power under the chief governor, and a burning zeal for extending their interests at every election; he would see the money raised upon the people for encouraging manufactures, and establishing the most desirable convenience of an inland navigation, perverted to the vile purposes of acquiring a dominion over boroughs, by jobbing the management of the works to those who are able to lend their assistance therein; if he continued his residence in the kingdom, he would discover laws to have been enacted, which (contrary to all those rules laid down by reason and publick utility for the direction of legislature) are respective in their nature, and assume for their object transactions and agreements, which had an existence previous to any notion of making such laws, with a view to encrease the private fortune of some parliamentary leaders, or screen some of their favorite tools from the just demands of their fellow-subjects; he would see these leaders professing whigish revolution principles, and, indeed, procuring and continuing to themselves much Protestant popularity by such appearances, yet, taking every indirect method of subverting these principles, by corrupting universally, and erasing from the minds of their countrymen, every impression of honour and regard to liberty; he would see the common people labouring under all the miseries of poverty, of slavery, and daily

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sinking from bad to worse ; and he would lay the true state of that unfortunate kingdom before his Majesty, from whose wisdom and goodness it could not fail of redress.

But if an unbounded attention to their parliamentary concerns, has so entirely engrossed the body of the British nobility, as to render it impossible to find those amongst them, who will dedicate their time to a real discharge of their duty as a Lord Lieutenant of Ireland ; many commoners may be found, who with great justice, will think themselves highly honoured by the office, even under that *severe condition* of doing their duty: the office derives no lustre from the person, but the person from the office ; a rule, which will hold even with kings. It is allowed, that to the exercise of an office in the treasury, admiralty, or the other departments of government, some experience and application are required, but for the government of a kingdom, which contains above two millions of inhabitants, supports, as I am informed, twenty thousand men, with placemen and pensioners beyond number, a nobleman becomes instantaneously qualified ; and when he thinks proper to be weary of his charge, his successor becomes as suddenly, and as miraculously qualified as he. If a country is so far removed from the residence of the sovereign, that he cannot see with his own eyes the real state of that country ; and
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if the indolence or avocation of viceroys are such, that they will not see with their own eyes, but must receive the *representations*, which they lay before Majesty, from men whose private interest it is, that every thing should be *misrepresented*; then will a few families of large fortunes, and extensive connexions, play off the king against the people, and the people against the king, and with the greatest success, provided they are strengthened by an English interest, they will appear to the people possessed of the royal confidence, from the power they are seen to have of bestowing some trifling civil employments, at times, a commission in the army, and upon extraordinary occasions, perhaps, a bishoprick; and the loyal deportment of the people will, by a most scandalous imposition, be imputed not to its real cause, a thorough *sense of their duty, and an unalterable affection to their Prince*, but to the address and ingenious management of these leaders; this, I may venture to undertake, is the hinge upon which Irish government has long turned, and the consequence must be an absolute vassalage in that country, and an entire obstruction of all intercourse between King and people; the feelings of allegiance will become faint; dependance, fear, adoration of their domestick idols, will take place, and these idols will have it in their power at length, to extort from their

master whatever species of pension, or gratification, they, in the plenitude of their insolence, shall think proper to demand.

However, since the age in which we live is such, that an unsocial, contracted selfishness, appears the strongest line in its character, I should not, my Lord, be surprized to hear it urged, in opposition to my speculations; *If Ireland is of so great moment, so fruitful in soil, its inhabitants so numerous, with such variety of other advantages, why shall it not take care of itself?* to this it may be sufficient to reply, that from her political dependance upon England, she cannot venture to undertake any business of weight, or of considerable import to herself, without the consent of England, bold strokes of reformation come from the arm which is powerful and unconstrained; that Ireland, backward as she is in copying from England, whatever may be useful and praise-worthy, has been most singularly docile in the science of cabal and domestick intrigue, nor are her sons less expert in bribery and corruption, than the managers of the most disputed borough in England: we have, therefore, rendered them both unfit and undisposed to reform themselves, whilst their subordination, had they been never so well disposed, has put it entirely out of their power; but if this reply proves insufficient, arguments drawn from love of self, must have their due weight,

weight; and let us recollect, that a time may come, when some powerful state, less indifferent about the advantages which nature offers, may think seriously of that country, which we look upon as unmeriting our notice; that the misconduct of governors, or the under agents of governors, may create an indifference in the minds of the people, whether they live under an Irish Lord Lieutenant, a French commandant, or a Spanish viceroy; that the united disaffections of the inhabitants, both Protestant and Papist, must yield great encouragement to foreign attempts to invade them, and almost certain stability to their invasions; and that in some future luxurious, degenerate age, a Hawke or Kepple may not appear, whose matchless intrepidity shall brave the dangers of rocks and shoals, to destroy the destined invaders, perhaps, the conquerors.

OUR PLANTATIONS have formed the subject of so much debate and altercation of late, that little new, and therefore very little interesting, can be now advanced upon that head; yet how will this matter appear, upon trial by that real touchstone of all political disquisitions, *improvement of manners and publick security*? Moral perfection, or the nearest possible approaches thereunto, is indisputably the first, and most worthy end of all our pursuits; and yet defence against external violence, protection of the community

engages,

engages, and with reason, almost an equal share of our attention, being that, without which, an opportunity of affecting the former is absolutely lost; arts, sciences, and pure religion, no more than eloquence*, can have their natural growth, amidst the strugglings for liberty, amidst the shouts of conquest, or, indeed, amidst the fears and apprehensions of being conquered; to this purpose is required a steady, settled, unpalliable temper in the state, for which reason, many small considerations must give way to this single great one; agreeable, therefore, to this principle, I cannot avoid declaring, that our American fellow-subjects have not maturely considered how trifling are the restrictions of the mother country, when weighed against the advantages, which that same mother country has afforded them; and I consider every writer who would whet the edge of their appetites, to a higher degree of keenness, for trade and wealth, as the general enemy, who would raise them too high in their own opinions, and lessen, in their eyes, the obligations they must owe to England: they talk of having carried *their fortunes from England to make their settlements*; some particular men might have done so, but,

* Neque enim in constituentibus rempublicam, nec in bella gerentibus, nec regum dominatione devinctis, nasei cupiditas dicendi porest. Cicero de Oratore.

nothing

nothing is more certain, or better known, than that necessity has been the cause of almost every emigration that has happened, and that the beginnings of most American properties were remarkably slender: by a free and beneficial trade, well protected by British navies, they have, indeed, accomplished a most rapid growth, to which their own much to be applauded care and industry has largely contributed.—The risk, *they say, they have run in making their settlements* cannot, as they pretend, be admitted as done with a view of *-serving the mother country*, because, in general, countries are allowed to suffer rather, by the exportation of their wealth and inhabitants, and so would England, did not the peculiarity of its naval and commercial circumstances, so singularly distinguish it from Spain and all other countries; did not its dominion of the seas, so facilitate the intercourse between every branch of its empire, that any of its inhabitants, or the property of any of its inhabitants, may, as it were by magick, virtually and in effect, appear wherever they require. Now, as to their obligations to Britain, admitting that no pecuniary aids had been advanced towards establishing their settlements, how can they discharge themselves of the obligation of having received from England a body of excellent laws, ready to be transcribed; a set of social improved manners, ready to be trans-

transplanted ; arts and sciences ; all which, if raised from the seed, would have a tedious, and interrupted growth in the wilds of America ? If we add to this, that respect which a subject of England must challenge, in what situation soever, which no small colony could pretend to maintain, it will be impossible to listen with patience, to the man, who would refine away these obligations, by alledging that England has acted from narrow motives, in order to strengthen herself : an undutiful child, may tell his father, that he begot him to please himself ; that he cherished him, that he fixed him and his fortunes in the world, merely to gratify his parental feelings ; and upon this false reasoning, impiously hold himself acquitted of every duty ; but nature declares against him ; and altho' no ingratitude can dwell where there is a reciprocation of good offices, yet, he who receives the first act of kindness, will ever remain the most obliged.

No man entertains a more cordial affection for our fellow-subjects of America than I do ; their emotions in favour of liberty are generous and praise-worthy, but must still be of opinion, that they have not, as yet, conceived (so generally as may be wished) notions of government sufficiently digested and extensive ; since their ancestors made their emigrations, liberty has received many and great improvements ; the rude wild stock,
hurried

hurried by scandalous persecutions at home, they hastily plucked from the mother soil; it struck strong roots, and vigorously flourished in their new congenial clime; but it was at the revolution, the generous well-flavoured fruit was engrafted, which I fear, no part of the British empire, except England, has yet brought themselves properly to relish.

A sacred and inviolable right of taxing themselves, and regulating their own affairs, without any exception, for what unforeseen dangers and sudden emergencies may produce, has been contended for with too great a latitude; the colonies must now consider themselves as a part inseparable from the grand body of the British empire, and as such, an evil happening to that part, may spread itself to the whole, as a sore in any particular member, may cause a general mortification; inattention to, or bad management of the plantations, may let in an evil, which would, in its consequences, bring the existence of Great-Britain into danger; a moment's deliberation, then, must surely fix the relative weight of British trade, glory, and influence, to that of American pure natural liberty, and absolute, uncontrollable independance. The Americans, being the subject of the present debates, because they happen to be more immediately concerned, declare themselves the proper judges upon

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the occasion, but altho' most *immediately* concerned, they do not furnish the object of *greatest* concern; British safety, power and trade, furnish this grand object: Britain, therefore, is the more competent judge, and it would be unreasonable to expect, that any wise administration, after the warnings already received from the indolent deportment of the colonies at the beginning of the late war, would suffer considerations of so high a nature, to rest upon the determinations of men, whose neglect has been already so justly censured, from whose torpid sullenness and obstinacy, the enemy did confessedly derive such advantage. Shall it depend upon the resolutions of a Philadelphian assembly, whether our fellow-subjects shall arm in defence of liberty and property? Does the fate of a whole continent bear any proportion to an almost imperceptible encroachment upon the important privilege of an American, deliberating for a year or two, whether he will pay six-pence in the pound, to save himself and family from perdition? A provincial assembly is very capable of determining upon what is most expedient for their own internal rule, what most advantageous to their trade; but when the great scheme of governing all the parts of an extensive community, when the relation in which they stand to this community is to be considered, then their capacities begin to narrow

narrow in my estimation, and they come to shew themselves in a sphere of debate, for which I can, by no means, think them qualified. Why, says an individual, fired with a wild spirit of liberty, shall I give up that power which nature has bestowed upon me, of acting and thinking for myself? Why, says an advocate for society, shall you be protected by society in your property and person, in the exercise of virtuous liberty, which is a power of doing, not what you will, but what you ought to will? If no individual then, may set up his single opinion and strong cravings for crude liberty, where social good is concerned, if he is not allowed to discern so clearly, whether these loud calls of nature, about which he makes so great a parade, may not interfere with, and obstruct some moral and social end; no more is any distinct part of an empire, intitled to carve for itself, and lay it down as an inviolable maxim, that on no occasion whatsoever are they to be governed, by rules to which they have not consented; much respect, therefore, is due to the opinion of Great-Britain, in that material point of regulating a provincial defence, and whenever it shall be urged, that the Americans are most competent to judge of the quantity of taxation, or the method of applying the taxes, and that a want of provincial defence, must be more immediately and sensibly felt by

themselves, than by those who are far removed from the scene of American affairs; when they plead the great law of nature and of liberty, to any claim of Britain to superintend their affairs, I reply, the ideas of social liberty in diametrical opposition to their allegations, I aver, that they are not the most competent judges of the expediency of a domestick defence; and I establish my averment, by their having already shewn themselves incompetent, in never producing any one general plan for that purpose, from the peace of Utrecht to the war of 1756; insomuch, that altho' ten times the number of our enemy, they would have been absolutely driven off the continent, were it not for the seasonable interposition of England, and all this, from a peevish reluctance to associate and unite, a reluctance, to sacrifice a small part of their own will and pleasure, to peace and security, which reluctance, they are disposed to compliment, with the honourable appellation of liberty.

If then, the American colonies, have manifested a neglect to make the necessary provision for their own defence, and that Britain may suffer through this neglect, she is powerfully warranted in proceeding against a probability of any future situation of those colonies, so dangerous, so productive of heavy expence, as that we have lately beheld. It was, indeed, the duty of the colonies, to anticipate

ticipate the cares of the mother country, and make, after the example of Ireland, such a military establishment as may tend to discourage any attempts of an enemy, and not furnish, by their remifness, a British administration, with even an excuse for obtruding their kind offices upon them : they should consider the various and fluctuating nature of British councils ; and that power, from the free nature of our government, may be sometimes in the hands of men, who are delighted in obliging and strengthening our enemies, in ill-treating and disgusting our friends, and who, when they accidentally engage in carrying even a necessary measure into execution, stumble upon some mode of doing it, which not only destroys every end and advantage which may arise from it, but is also productive of universal murmurs and dissatisfaction ; but of all things, should they beware of beholding our ministerial blunders, in the light of national acts, and thence, perhaps, conceive a dislike or alienation of affection from their British fellow-subjects. The sense of this nation is neither unjust, unreasonable, or oppressive ; but no human wisdom will, I fear, be ever able to secure us against falling sometimes into the hands of such wretches, as those who made the peace of Utrecht or of Versailles.

On the other side, my Lord, it must be admitted, that the mother country has not
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entirely acquitted herself in the discharge of her parental offices. It is certainly the duty of those, whom Providence has commissioned by conferring great powers on them, for promoting the welfare of the human species, to watch and attend to the changes of circumstance, which must happen to all earthly things, and frame such institutions, as may answer (so far as human prudence can provide) to the variety of cases which may arise; new circumstances produce new systems. When a personal property began to grow considerable in England, our ancestors thought proper immediately to enact such laws, as might facilitate alienations; they had recourse to the civil codes, and thence they brought the statute of will of distributions, and adopted such a portion of the spirit of Roman jurisprudence, as may answer the exigency. But, with regard to colonies, so distinguished is Great Britain, so critically distinguished, by a complication, of naval, of landed, of commercial, of military considerations, from every ancient state; that institutions drawn from Tyre, from Carthage, from Rome, or from Rhodes, can never answer the present occasion; and legislature must investigate, thro' the walks of nature, morals of utility, and of present convenience, such truths as may afford a ground work for this necessary undertaking; our common law, revered with justice for its honest simplicity,

plicity affords no resources in so variegated a subject ; nor could our Gothick fore-fathers possibly foresee the astonishing turn, which this kingdom has taken to commercial adventure, since the reign of Henry the Seventh, occasioned by a most unexpected event, the discovery of a new world ; they could not foresee the emigration of colonies to this new world, and could, therefore, never think of framing any calculation for such a contingency : why, then, look into the laws in being, for any aids upon this occasion ? A plausible and sagacious lawyer, may discover something in his books analogous, or what he thinks, and would persuade the world is analogous to the case of our colonies, proposed to him for serious consideration ; he fancies it a corporation, for instance, and from henceforth, every American question, comes to be examined by principles laid down for directing a corporate legislature ; that is, because a British corporation has delegated their natural original right of legislature, to those who represent them in parliament, and thereby vested in that assembly, a power of controuling their corporate acts : our colonies, therefore, who not being called upon, make no returns of members to the British parliament, are subject to a like controul, this is not reason, either plain or refined, either natural or artificial, and therefore cannot be law ; in truth, the
 opinions

opinions of the gentlemen of the long robe, are not to be admitted, in an affair, so much above their level, for this would, indeed, be an erecting of courts, intended for explication of the laws in being, into actual legislatures; a power, very lately rejected by, perhaps, one* of the wisest and most modest judges, that ever adorned a bench; and, in a case, where the exercise of such a power would be readily excused, being in vindication of the liberty of the subject. But, my Lord, the laborious strainings of our lawyers, in applying their learning to American affairs, will never produce any thing adequate to this grand occasion; our colonies are insensibly grown into a respectable importance, and demand the most solemn consideration of legislature, of wise, of honest legislature; and, I am persuaded, that the present matter deserves treaties, commissioners, and every other solemnity, preceding the act which united these kingdoms; we should conciliate the good-will of our fellow-subjects, who live at a distance, as warmly as that of those who are nearer home, provoke neither to resentments, by injury or oppression, but ever remember, that Egina and Æubea were easily brought to a sense of duty, by the Athenians, whenever they became turbulent; but

* Judgment delivered by Lord Camden, in the case of Entick and the Messengers, last day of Michaelmas term, 1765.

when

when they carried their arms against Greeks, who were more distant, the ruin of their power was the immediate consequence, and their greatness expired at Syracuse *.

Had Britain been blessed with a continuance of that administration, which carried her military glory to so exalted an height, in the last war, had that ministry, I say, been permitted to conclude a sound and healthy peace; upon that firm basis, by such able political builders, would have been raised a pile, composed of all our colonies and dependencies, whose strength, beauty, and magnificence, would be the envy and admiration of the world; these wise and virtuous patriots, would have shewn talents for peace, equal to those they had displayed for war, and our conquests, instead of being the cause of dissensions and animosities, between his Majesty's loyal subjects, would long since have turned to great and lasting account: commissioners would be formally appointed to examine minutely into the state of our colonies; a proper method taken for raising supplies to answer the expences of government; taxations be laid, in a manner, the least grievous to the subject, and most consistent with social liberty; in short, that gradual assimilation with the mother country, so much to be desired by all its descendants, would be at length brought about;

* The Syracusans were a Dorick colony.

for though war is the season of danger, yet, is it very easily demonstrated, that the minister of peace is as much above the minister of war, as the ends are more worthy than the means; that is, when the great and necessary works of peace are properly attended to ; but when peace is made, in order to generate matter for new war ; then, indeed, the artful wretch, who can deceive his king, corrupt, debase, and oppress the people, will answer every purpose ; no necessity for integrity or wisdom remains, where cunning and deceit are found to be all-sufficient.

I am,

My LORD, &c.

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A SHORT
HISTORY
OF THE
CONDUCT
OF THE
PRESENT MINISTRY,
With Regard to the
American Stamp Act.

The SECOND EDITION.

L O N D O N:

Printed for J. ALMON, opposite Burlington-
House in Piccadilly. 1766.

[Price Six-Pence.]

Y R O T S I H A D V E R T I S E M E N T.

THE following Pages were really the Substance of a private Letter, very lately sent by a Gentleman in Town to his Friend in the North; and by that Friend have been transmitted to the Press, without the least Alterations, except the Addition of a few Stops, and an Omission of the Writer's Name.

MY DEAR FRIEND,
O U have long desired, and
I will give you, in the best
manner I can, a short
History of the Conduct of the
Press in Ministers, Respecting
the



A SHORT
HISTORY
OF THE
Present Ministry.

IN A LETTER, &c.

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YOU have long desired, and
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B

the

the AMERICAN STAMP-ACT. As to the style, I shall not take much pains; but as to the *facts*, you may depend upon them.

It is now about two years ago, since the House of Commons came to a resolution, with regard to the *right* of laying taxes in America. Every body then knew, and the Minister of that time made no secret of declaring it, that that resolution was the forerunner of a tax. The gentlemen abovementioned, were then in opposition. They were hanging out the standard of Patriotism, and *affecting* to fight under it. Yet they did not oppose this resolution; momentous as it manifestly appeared to be, in laying not only the foundation of the Stamp

Stamp Tax (which was known to be then in agitation) but of *any*, and of *every other Tax which might follow*, and involving, as it certainly did, “ concerns of the most extreme “ magnitude,” and of the highest importance to both Great-Britain and America. It seemed to all, to be a clear thing; for the whole were unanimous. It was not until the following session, that the Bill for levying a Stamp Duty was brought in. So that there was sufficient time given to these supposed Patriots, for collecting all the arguments and sentiments, of all the interested, and wisest persons, on both sides the Atalantic. But they neglected making any use of this great opportunity; though, if they had really wished to serve

America, as they now falsely pretend, they certainly would not. And this much, at least, must, or ought, to be said in behalf of the late Ministry, whom I by no means intend to vindicate in this measure, that very few Acts have at any time been passed with such *unusual deliberation*. Of course then, with the greater contempt ought we to look upon a set of men, who are now making a parade of pouring forth their MOCK-SENTIMENTS, and arraigning the propriety of a measure, which they had not spirit to oppose, in the proper season; notwithstanding the most reasonable allowance of time, for awakening their courage, if they ever had any; and for obtaining intelligence and digesting ideas. But the truth is,

is, the greatest part of them were of the Minister's opinion, and have since changed their sentiments for the promotion of their interests.

Very little opposition therefore was made to the Bill: very few things were said, and there was no division. This was in one place. In another, so strong was the unanimity, that there was not even a single syllable uttered against it. It is true, some of the old leaven, who call themselves *Whigs*, but who are in fact so corrupt and dastardly, that they are the abusers of any name, but that of *time-servers*, did affect to suggest to a certain noble Lord, something like a *feint* of opposition to the Bill. But this noble Lord, who was single in the
sup-

support of public Liberty, in the hour of danger, and when none other of the party had virtue to appear ; whose intrepidity on that occasion was such, that his real friends began to tremble for his safety ; who was likewise single in sustaining with his purse the whole weight of that public cause ; and who preserved, as far, and as long, as ONE MAN could, unanimity in such a contaminated set : from whose popularity of character, disinterested conduct, and high esteem with the Public, they borrowed that *shadow* of Patriotism, which they now so awkwardly affect to wear, after having parted with all pretensions to the *substance*, by the most atrocious and most abandoned acts of intended and attempted TREACHE-

RY; which being now known, will mark them with infamy to their graves. I say, this noble Lord, not having forgot the scandalous leagues they had entered into with a certain prerogative lawyer, since dead, to BETRAY the cause; and knowing their desires to extend no further than the emoluments of office*; and not doubting the

* In this place, I must beg leave to make a little digression, and offer to your consideration, a few *QUERIES*; which, I believe, the present Ministers can solve without any difficulty.

Who, immediately, upon the most flagrant and wanton violations of the sacred liberties of Englishmen, in the case of Mr. Wilkes, eagerly paid their compliments to a certain great Person; hoping to get good Places by a scandalous *desertion* of their friends, and the Public, with whom they then passed for Patriots, and by an *offered Sacrifice* (for such *Desertion* at that critical hour was nothing less) of the man who had suffered in their service, and

the *right* of Parliament, not perhaps, seeing in the Bill itself sufficient ground for contest; and this last

and who was then combating with the illegal and usurped power of office?

Who, soon after, finding this *offered Treachery* insufficient for their purposes, entered into a league with a certain Prerogative Lawyer, since dead, to UPHOLD and DEFEND, what they then called the *necessity and legality of General Warrants*?

Who likewise, and for the same reason, entered into a league with the same Prerogative Lawyer, to vote away *Privilege* in the case of a seditious libel?

Who were afterwards compelled to renounce these, if possible, more than perfidious and infamous engagements, by the strength and popularity of the cause, which was carried on by other people; particularly by one noble Lord, of real worth and unsullied honour, who publicly stepped forward, and with his person, as well as his purse, which was always open on this occasion, bravely and generously attacked the monster of state tyranny, which for a series of years had fattened on the rights of Englishmen, under the leaders of the present Ministry; and for doing which, he was deserted by the Party, but applauded by every true Englishman?

Did

last reason has been acknowledged by the best American advocates, for, say they, " Though the Stamp " Duty has been the ostensible " cause of the late riots, yet that " in reality is but a *small part* of " their grievance:" (vide *True Interest*, and several other late Pamphlets.) Therefore he did not chuse to oppose, merely for the sake of opposition: and the others,

Did the D. of N. sign the protest upon privilege; and if not, why?

Who, pretending to oppose the influence of the Favourite, because he repeatedly refused to accept of them, did, upon the first prospect of vacancies, solicit and supplicate, in the most pressing and abject manner, to go into *any offices*, upon *any terms*, with Lord N. at the head of the Treasury?

If there be any who have been guilty of these real and proffered instances of the most scandalous and infamous PERFIDY; are they fit to be trusted, in any business, or upon any occasion whatever? Ought they not rather to be abhorred by every honest man?

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who

who had but barely suggested it, did it only for the *name*, not for the *service* of the thing; and durst not *separately* hazard their own insignificance against a measure, the rectitude or propriety of which they did not attempt to disprove.

—It is likewise true, that there were some petitions against it, but they going more against the *right*, than any other point, were not, nor indeed could not, be admitted.

Now all this was long before the reconciliation between the noble Lord and his Brother; or before that event was even thought of. So that it cannot be asserted, without the most manifest violation of truth, that the noble Lord changed

ed his opinion in compliment to his relation, or the temper of the times; for he has been UNIFORMLY THE SAME: which is more than can be said of the gentlemen at present in office.

It is a fact which they cannot deny, and can be too well attested for them to attempt to refute, that so eager were they for great salaries, they made no hesitation of deserting their friends, and did not even wait to make any stipulations whatever. The affairs of the nation, and all public and private business, were left to the chapter of accidents. So that it is clear, they went into offices merely for the emoluments of them; and that America with them never was an object.

And to put this assertion beyond all doubt, we need only take a short review of their subsequent conduct ; and we shall find, that the same manifest diffidence and unpardonable neglect, which governed them when in opposition, to have guided them when in office ; with this difference as to the *motive* only, that before their acceptance, they thought mildness in their measures, and a forbearance to stand forward upon any public ground, or in support of any public cause, the best way to get to St. James's : and having, to the astonishment of mankind, by deserting their friends, and turning their backs upon all those who had served them, at length arrived there ; they thought a servile compliance with every tem-

temporary humour, and a scandalous prostration and the most sincere oblations, at the shrine of the Favourite, which they repeatedly offered, and he has hitherto repeatedly refused to accept ; the best means of staying there.

Accordingly we find, that although it was under their administration that the first advices came from America, of the general and violent opposition to the Stamp Act ; and although the adjustment of this business was of the highest importance to both Great-Britain and America, and the very nature of it so consequential and pressing, that both countries might be ruined by DELAY : yet with the strongest and fullest information of the
be-

behaviour of the Americans before them ; with their eyes open, as to a prospect of the terrible consequences which presented themselves before these unfeeling Ministers ; who knowing, or might have known, if they ever read the Stamp Act, that it was to take place on the first day of last November ; and that a suspension of this most important consideration, must inevitably occasion an almost total stagnation of trade : I say, notwithstanding all these great and forcible reasons for calling the Parliament ; yet did they put off the meeting of that Assembly for business, until the middle of January. And it was not until above seven weeks after, that the repeal of the Stamp Act was even believed to be certain.

The

The timidity with which they were seized, owing to a continual dread of losing their places; and the fluctuation and contrariety of opinions amongst them, owing to the heterogeneous mixture of which they are composed; were the true causes of that most injurious and most unpardonable DELAY: for it is a fact well known, that sometimes they were for enforcing the Act, (and by postponing the consideration of it, they undoubtedly meant that it should enforce itself) sometimes they were for suspending it, at other times for repealing it, and never unanimous in any thing; until the Great Commoner sanctified the revolt of America, and having by a doctrine, which they had not spirit to either adopt or oppose,

and

and by which they were struck with dismay and confusion, laid the foundation of a total separation between Great-Britain and the Colonies, and in them, of an absolute independence of the Mother Country ; he at length fixed them in the act of repeal.

The suspense and imbecility on this side the water, encouraged the ferment on the other : hence arose those conditions to the British merchants and traders, of not sending any goods, *unless the Stamp Act was repealed*. And hence those many inflammatory publications, which our DELAY furnished such an opportunity for writing and propagating throughout the Colonies : likewise that general union of
the

the Colonies; and above all, that repeated denial of right, which nothing can now erase, and which has for ever wounded the Majesty of England, and planted thorns under the pillow of our Sovereign.

Whether the Stamp Act was originally, or whether the repeal of it now, be measures either prudent or consistent, I will not say any thing, because greater authority will soon determine both. But I hope every body who knows the few facts I have here thrown together, or to whom you may think proper to read this paper, will readily agree with me, in thinking and saying, that the distresses of Great-Britain and America, so far as relates to the Stamp Act, have not only been

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wholly

wholly occasioned, but most *wanton-ly*, *cruelly* and *unnecessarily aggravated* by the timidity, incapacity and neglect of the present administration. Had they called the Parliament at the proper time, none of the late disturbances would have happened; nor that train of evil consequences have followed, which their DELAY seems to have been contrived to promote.

As this crime was committed by *design*, so the persons guilty of it, are deserving the most bitter abhorrence of all true friends of their country: and if ever any ministerial conduct deserved an exemplary censure, this most certainly does; by a discharge of them from those offices, the great duties of which
they

they have so flagrantly abused, and
a stigma of their incapacity for
ever holding them again:

I am,

My dear Friend, &c. &c.

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*" Upon the whole, I will beg leave to tell the House
" what is really my Opinion. It is, that the Stamp-
" Act be REPEALED ABSOLUTELY, TOTALLY, and
" IMMEDIATELY.*

Mr. P—TT.

L O N D O N :

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M DCC LXVI.

Added by direction of T.H

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A

Celebrated Speech.

IT is necessary to inform the reader, that some time before the meeting of parliament, a report had been artfully propagated, that the ministry had changed their minds with regard to the Stamp-Act, and, instead of repealing, were resolved to enforce it. If it could be proved, that this report did not come originally from the favourites of a certain northern nobleman, yet it was certainly much indebted to them for its progress, which was so great as to affect the stocks.

The king's speech to the parliament on the 14th of January, 1766, gave some colour to the suggestion; but when the gentlemen had spoke who moved for the address, and who seconded it; nothing could be clearer, than that the ministry persisted in their intention to promote the repeal. The friends of the late ministry applauded the king's speech, and approved of the proposed address, which, as usual, only recapitulated the speech.

The opposition took great offence at the tenderness of expression, that the two first gentleman had made use of concerning America. Mr. Nugent particularly insisted, "That the HONOR and dignity of the kingdom, obliged us to compel the execution of the Stamp-Act, except the right was acknowledged, and the repeal solicited as a favour. He computed the expence of the troops now employed in America for their defence, as he called it, to amount to nine-pence in the pound of our land-tax; while the produce of the Stamp-Act

would not raise a shilling a head on the inhabitants of America; but that a pepper-corn, in acknowledgement of the right, was of more value, than millions without. He expatiated on the extreme ingratitude of the Colonies; and concluded, with charging the ministry with encouraging petitions to parliament, and instructions to members from the trading and manufacturing towns, against the Act."

Mr. Pitt was the next speaker. Every friend of his country rejoiced to see him again in that house, and more so, in such perfect health. As he always begins very low, and as every body was in agitation at his first rising, his introduction was not heard, 'till he said, "I came to town but to-day; I was a stranger to the tenor of his majesty's speech, and the proposed address, 'till I heard them read in this house. Unconnected and unconsulted, I have not the means of information; I am fearful of offending through mistake, and therefore beg to be indulged with a second reading of the proposed address." The address being read, Mr. Pitt went on:—"He commended the king's speech, approved of the address in answer, as it decided nothing, every gentleman being left at perfect liberty to take such a part concerning America, as he might afterwards see fit. One word only he could not approve of, an **EARLY**, is a word that does not belong to the notice the ministry have given to parliament of the troubles in America. In a matter of such importance, the communication ought to have been immediate: I speak not with respect to parties; I stand up in this place single and unconnected. As to the late ministry, (turning himself to Mr. G——le, who sat within one of him) every capital measure they have taken, has been entirely wrong!

"As to the present gentlemen, to those at least whom I have in my eye (looking at the bench where Mr. Conway sat, with the lords of the Treasury) I have no objection; I have never been made a sacrifice by any of them. Their characters are fair; and I am always glad when men of fair character

rather engage in his majesty's service. Some of them have done me the honour to ask my poor opinion, before they would engage. These will do me the justice to own, I advised them to engage; but notwithstanding—I love to be explicit—I cannot give them my confidence; pardon me, gentlemen, (bowing to the ministry) confidence is a plant of slow growth in an aged bosom: youth is the season of credulity; by comparing events with each other, reasoning from effects to causes, methinks, I plainly discover the traces of an over-ruling influence.

“ There is a clause in the act of settlement, to oblige every minister to sign his name to the advice which he gives his sovereign. Would it were observed!—I have had the honour to serve the crown, and if I could have submitted to influence, I might have still continued to serve; but I would not be responsible for others.—I have no local attachments: it is indifferent to me, whether a man was rocked in his cradle on this side or that side of the Tweed.—I sought for merit wherever it was to be found.—It is my boast, that I was the first minister who looked for it, and I found it in the mountains of the north. I called it forth, and drew it into your service, an hardy and intrepid race of men! men, who, when left by your jealousy, became a prey to the artifices of your enemies, and had gone nigh to have overturned the state, in the war before the last. These men, in the last war, were brought to combat on your side: they served with fidelity, as they fought with valour, and conquered for you in every part of the world: detested by the national reflections against them!—they are unjust, groundless, illiberal, unmanly. When I ceased to serve his majesty as a minister, it was not the COUNTRY of the man by which I was moved—but THE MAN of that country wanted wisdom, and held principles incompatible with FREEDOM.

It is a long time, Mr. Speaker, since I have attended in parliament. When the resolution was taken in the house to

tax America, I was ill in bed. If I could have indured to have been carried in my bed, so great was the agitation of my mind for the consequences ! I would have solicited some kind hand to have laid me down on this floor, to have borne my testimony against it. It is now an act that has passed—I would speak with decency of every act of this house, but I must beg the indulgence of the house to speak of it with freedom.

“ I hope a day may be soon appointed to consider the state of the nation with respect to America. — I hope, gentlemen will come to this debate with all the temper and impartiality that his majesty recommends, and the importance of the subject requires. A subject of greater importance than ever engaged the attention of this house ! that subject only excepted, when, near a century ago, it was the question, whether you yourselves were to be bound, or free. In the mean time, as I cannot depend upon health for any future day, such is the nature of my infirmities, I will beg to say a few words at present, leaving the justice, the equity, the policy, the expediency of the act, to another time. I will only speak to one point, a point which seems not to have been generally understood—I mean to the right. Some gentlemen (alluding to Mr. N — t) seem to have considered it as a point of HONOR. If gentlemen consider it in that light, they leave all measures of right and wrong, to follow a delusion that may lead to destruction. It is my opinion that this kingdom has no right to lay a tax upon the colonies. At the same time, I assert the authority of this kingdom over the colonies, to be sovereign and supreme, in every circumstance of government and legislation whatsoever. — They are the subjects of this kingdom, equally intitled with yourselves to all the natural rights of mankind and the peculiar privileges of Englishmen. Equally bound by its laws, and equally participating of the constitution of this free country. The Americans are the sons, not the bastards of England. Taxation is no part of the governing or legislative power. — The taxes are a
voluntary

voluntary gift and grant of the commons alone. In legislation the three estates of the realm are alike concerned, but the concurrence of the peers and the crown to a tax, is only necessary to close with the form of a law. The gift and grant is of the commons alone. In ancient days, the crown, the barons, and the clergy possessed the lands. In those days, the barons and the clergy gave and granted to the crown. They gave and granted what was their own. At present, since the discovery of America, and other circumstances permitting, the commons are become the proprietors of the land. The crown has divested itself of its great estates. The church (God bless it) has but a pittance. The property of the lords, compared with that of the commons, is as a drop of water in the ocean: and this house represents those commons, the proprietors of the lands; and those proprietors virtually represent the rest of the inhabitants. When, therefore, in this house we give and grant, we give and grant what is our own. But in an American tax, what do we do? We, your majesty's commons of Great-Britain, give and grant to your majesty, what? Our own property?—No. We give and grant to your majesty the property of your majesty's commons of America.—It is an absurdity in terms.—

“ The distinction between legislation and taxation is essentially necessary to liberty. The crown, the peers, are equally legislative powers with the commons. If taxation be a part of simple legislation, the crown, the peers have rights in taxation as well as yourselves: rights which they will claim, which they will exercise, whenever the principle can be supported by POWER.

“ There is an idea in some, that the colonies are virtually represented in this house. I would fain know by whom an American is represented here? Is he represented by any knight of the shire, in any county in this kingdom? WOULD TO GOD THAT RESPECTABLE REPRESENTATION WAS AUGMENTED TO A GREATER NUMBER! Or will you tell him that

that he is represented by any representative of a borough — a borough, which perhaps no man ever saw—This is what is called, the ROTTEN PART OF THE CONSTITUTION.—It cannot continue the century — If it does not drop, it must be amputated.—The idea of a virtual representation of America in this house, is the most contemptible idea that ever entered into the head of a man — It does not deserve a serious refutation.

“ The commons of America, represented in their several assemblies, have ever been in possession of the exercise of this, their constitutional right, of giving and granting their own money. They would have been slaves if they had not enjoyed it. At the same time, this kingdom, as the supreme governing and legislative power, has always bound the colonies by her laws, by her regulations, and restrictions in trade, in navigation, in manufactures—in every thing, except that of taking their money out of their pockets without their consent.

“ Here I would draw the line,

Quam ultra citraque nequit consistere rectum.”

He concluded with a familiar voice and tone, but so low, that it was not easy to distinguish what he said. A considerable pause ensued after Mr. Pitt had done speaking—Mr. C--n--y then got up. He said, “ he had been waiting to see whether any answer would be given, to what had been advanced by the right honourable gentleman, reserving himself for the reply: but as none had been given, he had only to declare, that his own sentiments were entirely conformable to those of the right honourable gentleman.—That they are so conformable, he said, is a circumstance that affects me with most sensible pleasure, and does me the greatest honour. but two things fell from that gentleman, which give me pain, as, whatever falls from that gentleman, falls from so great a height as to make a deep impression.—I must endeavour to

remove

remove it.—It was objected, that the notice given to parliament of the troubles in America was not early. I can assure the house, the first accounts were too vague and imperfect to be worth the notice of parliament. It is only of late that they have been precise and full. An over-ruling influence has also been hinted at. I see nothing of it—I feel nothing of it—I disclaim it for myself, and (as far as my discernment can reach) for all the rest of his majesty's ministers. Mr. Pitt said, in answer to Mr. C——y, “The excuse is a valid one, if it is a just one. That must appear from the papers now before the house.” In the interim, Mr. G——le had recovered himself. He avoided meddling with the doctrine of taxation being confined to the house of commons, and being founded on the free gift of the collective body, through the medium of their representatives; neither did he attempt to defend the virtual representation of America; but began with censuring the present ministry very severely, for delaying to give earlier notice to parliament of the disturbances in America. He said, “They began in July, and now we are in the middle of January; lately they were only occurrences, (the word used in the king's speech on the 17th of December) they are now grown to disturbances, to tumults and riots. I doubt they border on open rebellion; and if the doctrine I have heard this day be confirmed, I fear they will lose that name to take that of Revolution. The government over them being dissolved a revolution will take place in America. I cannot understand the difference between external and internal taxes. They are the same in effect, and only differ in name. That this kingdom is the sovereign, the supreme legislative power over America, is granted. It cannot be denied; and taxation is a part of that sovereign power. It is one branch of the legislation. It is, it has been exercised, over those who are not, who were never represented. It is exercised over the India company, the merchants of London, the proprietors of the stocks, and over many great manufacturing towns. It was

exercised over the palatinate of Chester, and the bishoprick of Durham, before they sent any representatives to parliament. I appeal for proof to the preambles of the acts which gave them representatives: the one in the reign of Henry VIII. the other in that of Charles II." Mr. G—lle then quoted the STATUTES EXACTLY, and desired that they might be read; which being done, he resumed his discourse: "When I proposed to tax America, I asked the house, if any gentleman would object to the right; I repeatedly asked it, and no man would attempt to deny it. Protection and obedience are reciprocal. Great-Britain protects America; America is bound to yield obedience. If not, tell me where the Americans were emancipated? When they want the protection of this kingdom, they are always very ready to ask it. That protection has always been afforded them in the most full and ample manner. The nation has run itself into an immense debt to give them their protection; and now they are called upon to contribute a small share towards the public expence, an expence arising from themselves, they renounce your authority, insult your officers, and break out, I might almost say, into open rebellion. The seditious spirit of the colonies owes its birth to the factions in this house. Gentlemen are careless of the consequences of what they say, provided it answers the purposes of opposition. We were told we tread on tender ground; we were bid to expect disobedience. What was this, but telling the Americans to stand out against the law to encourage their obstinacy with the expectation of support from hence? Let us only hold out a little, they would say, our friends will soon be in power. Ungrateful people of America! Bounties have been extended to them. When I had the honour of serving the crown, while you yourselves were loaded with an enormous debt, you have given bounties on their lumber, on their iron, their hemp, and many other articles. You have relaxed, in their favour, the act of navigation, that palladium of the British commerce; and

and yet I have been abused in all the public papers as an enemy to the trade of America. I have been particularly charged with giving orders and instructions to prevent the Spanish trade, and thereby stopping the channel, by which alone North America used to be supplied with cash for remittances to this country. I defy any man to produce any such orders or instructions. I discouraged no trade but what was illicit, what was prohibited by act of parliament. I desire a West-India merchant, well known in the city (Mr. Long) a gentleman of character, may be examined. He will tell you, that I offered to do every thing in my power to advance the trade of America. I was above giving an answer to anonymous calumnies; but in this place, it becomes one to wipe off the aspersion.

Here Mr. Grenville ceased. Several members got up to speak, but Mr. Pitt seeming to rise, the house was so clamorous for Mr. Pitt, Mr. Pitt, that the Speaker was obliged to call to order.

After obtaining a little quiet, he said, "Mr. Pitt was up;" who began with informing the house, "That he did not mean to have gone any further upon the subject that day; that he had only designed to have thrown out a few hints, which, gentlemen who were so confident of the right of this kingdom to send taxes to America, might consider; might, perhaps, reflect, in a cooler moment, that the right was at least equivocal. But since the gentleman, who spoke last, had not stopped on that ground, but had gone into the whole; into the justice, the equity, the policy, the expediency of the Stamp-Act, as well as into the right, he would follow him through the whole field, and combat his arguments on every point."

He was going on, when lord Strange got up, and called both the gentlemen, Mr. Pitt, and Mr. Grenville, to order. He said, "they had both departed from the matter before the house, which was the king's speech; and that Mr. Pitt was

going to speak twice on the same debate, although the house was not in a committee."

Mr. George Onslow answered, " That they were both in order, as nothing had been said, but what was fairly deducible from the king's speech," and appealed to the Speaker. The Speaker decided in Mr. Onslow's favour.

Mr. Pitt said, " I do not apprehend I am speaking twice : I did expressly reserve a part of my subject, in order to save the time of this house, but I am compell'd to proceed in it. I do not speak twice ; I only finished what I designedly left imperfect. But if the house is of a different opinion, far be it from me to indulge a wish of transgression, against order. I am content, if it be your pleasure, to be silent."—Here he paused—The house resounding with, " Go on, go on ;" he proceeded :

" Gentlemen, Sir, (to the Speaker) I have been charged with giving birth to sedition in America. They have spoken their sentiments with freedom, against this unhappy act, and and that freedom has become their crime. Sorry I am to hear the liberty of speech in this house, imputed as a crime. But the imputation shall not discourage me. It is a liberty I mean to exercise. No gentleman ought to be afraid to exercise it. It is a liberty by which the gentleman who calumniates it might have profited. He ought to have profited. He ought to have desisted from his project. The gentleman tells us, America is obstinate ; America is almost in open rebellion. I rejoice that America has resisted. Three millions of people, so dead to all the feelings of liberty, as voluntarily to submit to be slaves, would have been fit instruments to make slaves of the rest. I come not here arm'd at all points, with law cases and acts of parliament, with the statute book doubled down in dogs-ears, to defend the cause of liberty : if I had, I myself would have cited the two cases of Chester and Durham. I would have cited them, to have shewn, that, even under arbitrary reigns, parliaments
were

were ashamed of taxing a people without their consent, and allowed them representatives. Why did the gentleman confine himself to Chester and Durham? He might have taken a higher example in Wales; Wales, that never was taxed by parliament, 'till it was incorporated. I would not debate a particular point of law with the gentleman: I know his abilities. I have been obliged to his diligent researches. But, for the defence of liberty upon a general principle, upon a constitutional principle, it is a ground on which I stand firm; on which I dare meet any man. The gentleman tells us of many who are taxed, and are not represented. The India company, merchants, stock-holders, manufacturers. Surely many of these are represented in other capacities, as owners of land, or as freemen of boroughs. It is a misfortune that more are not actually represented. But they are all inhabitants, and, as such, are virtually represented. Many have it in their option to be actually represented. They have connexions with those that elect, and they have influence over them. The gentleman mentioned the stock-holders: I hope he does not reckon the debts of the nation as part of the national estate. Since the accession of king William, many ministers, some of great, others of more moderate abilities, have taken the lead of government."

He then went through the list of them, bringing it down 'till he came to himself, giving a short sketch of the characters of each of them. "None of these, he said, thought, or ever dreamed, of robbing the colonies of their constitutional rights. That was reserved to mark the æra of the late administration: not, that there were wanting some, when I had the honour to serve his majesty, to propose to me to burn my fingers with an American Stamp-Act. With the enemy at their back, with our bayonets at their breasts, in the day of their distress, perhaps the Americans would have submitted to the imposition; but it would have been taking an ungenerous, and unjust advantage. The gentleman
boasts

boasts of his bounties to America ! Are those bounties intended finally for the benefit of this kingdom ? If they are, where is his peculiar merit to America ? If they are not, he has misapplied the national treasures. I am no courtier of America, I stand up for this kingdom. I maintain, that the parliament has a right to bind, to restrain America. Our legislative power over the colonies, is sovereign and supreme. When it ceases to be sovereign and supreme, I would advise every gentleman to sell his lands, if he can, and embark for that country. When two countries are connected together, like England and her colonies, without being incorporated, the one must necessarily govern ; the greater must rule the less ; but so rule it, as not to contradict the fundamental principles that are common to both.

“ If the gentleman does not understand the difference between internal and external taxes, I cannot help it ; but there is a plain distinction between taxes levied for the purposes of raising a revenue, and duties imposed for the regulation of trade, for the accommodation of the subject ; although, in the consequences, some revenue might incidentally arise from the latter.

The gentleman asks, when were the colonies emancipated ? But I desire to know, when they were made slaves ? But I dwell not upon words. When I had the honour of serving his majesty, I availed myself of the means of information, which I derived from my office : I speak, therefore, from knowledge. My materials were good. I was at pains to collect, to digest, to consider them, and I will be bold to affirm, that the profits to Great Britain from the trade of the colonies, through all its branches, is two millions a year. This is the fund that carried you triumphantly through the last war. The estates that were rented at two thousand pounds a year, threescore years ago, are at three thousand pounds at present. Those estates sold then from fifteen to eighteen years purchase ; the same may be now sold for thirty.

thirty. You owe this to America. This is the price that America pays you for her protection. And shall a miserable financier come with a boast, that he can fetch a pepper-corn into the Exchequer, to the loss of millions to the nation ! I dare not say, how much higher these profits may be augmented. Omitting the immense increase of people, by natural population, in the northern colonies, and the migration from every part of Europe, I am convinced the whole commercial system of America may be altered to advantage. You have prohibited, where you ought to have encouraged ; and you have encouraged where you ought to have prohibited. Improper restraints have been laid on the continent, in favour of the islands. You have but two nations to trade with in America. Would you had twenty ! Let acts of parliament in consequence of treaties remain, but let not an English minister become a custom-house officer for Spain, or for any foreign power. Much is wrong, much may be amended for the general good of the whole.

“ Does the gentleman complain he has been misrepresented in the public prints ? It is a common misfortune. In the Spanish affair in the last war, I was abused in all the newspapers, for having advised his majesty to violate the laws of nations with regard to Spain. The abuse was industriously circulated even in hand-bills. If administration did not propagate the abuse, ADMINISTRATION NEVER CONTRADICTED IT. I will not say what advice I did give to the king. My advice is in writing, signed by myself, in the possession of the crown. But I will say, what advice I did not give to the king : I did not advise him to violate any of the laws of nations.

“ As to the report of the gentleman's preventing in some way the trade for bullion with the Spaniards, it was spoken of so confidently, that I own I am one of those who did believe it to be true.

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"The gentleman must not wonder he was not contradicted, when, as the minister, he asserted a right of parliament to tax America. I know not how it is, but there is a modesty in this house which does not chuse to contradict a minister. I wish gentlemen would get the better of this modesty. If they do not, perhaps, the collective body may begin to abate of its respect for the representative. Lord Bacon had told me, that a great question would not fail of being agitated at one time or another. I was willing to agitate that at the proper season, the German war: my German war, they called it. Every session I called out, has any body any objections to the German war? No body would object to it, one gentleman only excepted, since removed to the upper house, by succession to an ancient barony," (meaning lord le Despencer, formerly Sir Francis Dashwood;) he told me, "he did not like my German war." I honoured the man for it, and was sorry when he was turned out of his post.

"A great deal has been said without doors, of the power, of the strength of America. It is a topic that ought to be cautiously meddled with. In a good cause, on a sound bottom, the force of this country can crush America to atoms. I know the valour of your troops. I know the skill of your officers. There is not a company of foot that has served in America, out of which you may not pick a man of sufficient knowledge and experience, to make a governor of a colony there. But on this ground, on the Stamp-Act, when so many here will think it a crying injustice, I am one who will lift up my hands against it.

"In such a cause, your success would be hazardous.—America, if she fell, would fall like the strong man. She would embrace the pillars of the state, and pull down the constitution along with her. Is this your boasted peace? Not to sheath the sword in its scabbord, but to sheath it in the bowels of your countrymen? Will you quarrel with yourselves, now the whole house of Bourbon is united against you?

you? While France disturbs your fisheries in Newfoundland, embarrasses your slave trade to Africa, and with-holds from your subjects in Canada, their property stipulated by treaty; while the ransom for Manillas is denied by Spain; and its gallant conqueror basely traduced into a mean plunderer, a gentleman, (colonel Draper) whose noble and generous spirit would do honour to the proudest grandee of the country. The Americans have not acted in all things with prudence and temper. They have been wronged. They have been driven to madness by injustice. Will you punish them for the madness you have occasioned? Rather let prudence and temper come first from this side. I will undertake for America, that she will follow the example. There are two lines in a ballad of Prior's, of a man's behaviour to his wife, so applicable to you and your colonies, that I cannot help repeating them:

" Be to her faults a little blind:

" Be to her virtues very kind.

" Upon the whole, I will beg leave to tell the house what is really my opinion. It is, that the Stamp-Act be REPEALED ABSOLUTELY, TOTALLY, and IMMEDIATELY. That the reason for the repeal be assigned, because it was founded on an erroneous principle. At the same time, let the sovereign authority of this country over the colonies, be asserted in as strong terms as can be devised, and be made to extend to every point of legislation whatsoever. That we may bind their TRADE, confine their MANUFACTURES, and exercise every POWER whatsoever, except that of taking their money out of their pockets without their consent!"—

CORRECT COPIES
Of the TWO
P R O T E S T S
AGAINST THE
B I L L
To Repeal the
American Stamp Act,
O F
LAST SESSION.
With LISTS of the
SPEAKERS AND VOTERS.

A P A R I S,

Chez J. W. Imprimeur, Rue du Colombier Fauxbourg
St. Germain, à l'Hotel de Saxe. M.DCC.LXVI.

Prix, Vingt-quatre Sous.

Avec Approbation, & Privilege.

S P E A K E R S.

On the Second Reading.

Against the Repeal.

- 1 Earl of Coventry
- 3 Earl of Sandwich
- 5 Earl of Hallifax
- 9 Lord Botetourt
- 10 Earl of Suffolk
- 12 Lord Lyttelton
- 14 Lord Mansfield
- 16 Ld. Vis. Townshend
- 17 Earl Temple
- 18 Duke of Bedford

For the Repeal.

- 2 Duke of Newcastle
- 4 Duke of Grafton
- 6 Duke of Richmond
- 7 Earl Poulet
- 8 Earl of Pomfret
- 11 Lord Chancellor
- 13 Earl of Shelburne
- 15 Lord Camden

On the Third Reading.

Against the Repeal.

- 1 Lord Lyttelton
- 2 Earl of Bute
- 3 Earl Gower

For the Repeal

- 4 Duke of Newcastle

Die Mercurii, 11^o Martii, 1766.

The Order of the Day being read for the second reading of the Bill, entituled, *An Act to repeal an act made in the last session of Parliament, entituled, An Act for granting and applying certain Stamp Duties and other duties in the British Colonies and Plantations in America, towards further defraying the expences of defending, protecting, and securing the same, and for amending such parts of the severall acts of parliament relating to the Trade and Revenues of the said Colonies and Plantations, as direct the manner of Determining and Recovering the Penalties and Forfeitures therein mentioned.* Then the said Bill was read a second Time, and it being proposed to commit the Bill, the same was objected to. After a long Debate thereupon, the Question was put, Whether the said Bill shall be committed: It was resolved in the Affirmative.

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Dissentient,

1st, **B**ECAUSE, as this House has in this Session by several resolutions most solemnly asserted and declared, first, "That the King's Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons of Great Britain, in Parliament assembled, had, hath, and of right ought to have, full power and authority, to make laws and statutes of sufficient force and validity to bind the Colonies, and people of America, subjects of the Crown of Great Britain, in all cases whatsoever:" Secondly, "That tumults and

insurrections of the most dangerous nature have been raised and carried on in several of the North American Colonies, in open defiance of the power and dignity of his Majesty's Government, and in manifest violation of the laws and legislative authority of this Kingdom :” Thirdly, “ That the said tumults and insurrections have been encouraged and inflamed, by sundry votes and resolutions passed in several of the Assemblies of the said Provinces, derogatory to the honour of his Majesty's Government, and destructive of the legal and constitutional dependency of the said Colonies, on the imperial Crown and Parliament of Great Britain :” Which resolutions were founded on a full examination of the papers on our table, manifesting a denial of the legislative authority of the Crown and Parliament of Great Britain, to impose duties and taxes on our North American Colonies ; and a criminal resistance there made to the execution of the commercial and other regulations of the Stamp Act, and of other acts of parliament : we are of opinion, that the total repealing of that law, especially while such resistance continues, would (as Governor Barnarde says is their intention) “ make the authority of Great Britain contemptible hereafter ;” and that such a submission of King, Lords, and Commons, under such circumstances, in so strange and unheard of a contest, would, in effect, surrender their antient, unalienable rights of supreme jurisdiction, and give them exclusively to the subordinate Provincial Legislatures established by prerogative ; which was
never

never intended or thought of, and is not in the power of prerogative to bestow ; as they are inseparable from the Three Estates of the Realm assembled in Parliament.

2dly, Because the law, which this Bill now proposes to repeal, was passed in the other House with very little opposition, and in this without one dissentient voice, during the last session of Parliament, which we presume, if it had been wholly and fundamentally wrong, could not possibly have happened ; as the matter of it is so important, and as the intention of bringing it in, had been communicated to the Commons by the first Commissioner of the Treasury the year before, and a resolution, relating and preparatory to it, was then agreed to in that House, without any division.

3dly, Because, if any particular parts of that law, the principal of which has been experienced and submitted to in this country, without repining, for near a century past, had been found liable to just and reasonable objections, they might have been altered by a Bill to explain and amend it, without repealing the whole. And, if any such Bill had been sent to us by the Commons, we should have thought it our duty to have given it a most serious consideration, with a warm desire of relieving our countrymen in America from any grievance or hardship ; but with proper care to enforce their submission and obedience to the law so amended, and to the whole legislative authority of Great Britain, without any reserve or distinction whatsoever.

4thly,

4^{thly}, Because, it appears to us, that a most essential branch of that authority, the power of Taxation, cannot be properly, equitably, or impartially exercised, if it does not extend itself to all the members of the state in proportion to their respective abilities; but suffers a part to be exempt from a due share of those burthens, which the public exigencies require to be imposed upon the whole: a partiality which is directly and manifestly repugnant to the trust reposed by the people in every legislature, and destructive of that confidence on which all government is founded.

5^{thly}, Because, the ability of our North-American Colonies, to bear without inconvenience the proportion laid on them by the Stamp Act of last year, appears to us most unquestionable, for the following reasons: First, That the estimated produce of this Tax, amounting to sixty thousand pounds *per Annum*, if divided amongst twelve hundred thousand people (being little more than one half of the subjects of the Crown in North America) would be only one shilling *per head* a year; which is but a third of the wages usually paid to every labourer or manufacturer there for one day's labour: Secondly, That it appears by the accounts that have been laid before this House from the Commissioners of Trade and Plantations, that of the debt contracted by those Colonies in the last war, above 1,755,000/. has already been discharged during the course of three years only, by the funds provided for that purpose in the several Provinces; and the much greater part
of

of the remaining incumbrance, which in the whole is about 760,000 pounds, will be paid in two years more : We must likewise observe, that the bounties and advantages given to them by Parliament in 1764 and 1765, and the duties thereby lost to Great Britain for their service, and in order to enable them the more easily to pay this Tax, must necessarily amount in a few years to a far greater sum than the produce thereof. It is also evident, that such produce being wholly appropriated to the payment of the army maintained by this Kingdom in our Colonies, at the vast expence of almost a shilling in the pound land tax, annually remitted by us for their special defence and protection ; not only no money would have been actually drawn by it out of that country, but the ease given by it to the people of Great Britain, who are labouring under a debt of seventy millions, contracted by them to support a very dangerous war, entered into for the interest and security of those Colonies, would have redounded to the benefit of the Colonies themselves in their own immediate safety, by contributing to deliver them from the necessary expence, which many of them have hitherto always borne, in guarding their frontiers against the savage Indians.

6thly, Because, not only the right, but the expediency and necessity of the supreme legislature's exerting its authority to lay a general tax on our American Colonies, whenever the wants of the public make it fitting and reasonable that all the Provinces should contribute

bute in a proper proportion to the defence of the whole, appear to us undeniable, from these considerations: First, That every Province being separate and independent on the others, and having no Common Council impowered by the constitution of the Colonies to act for all, or bind all, such a tax cannot regularly, or without infinite difficulty, be imposed upon them, at any time, even for their immediate defence or protection, by their own provincial assemblies; but requires the intervention and superintending power of the Parliament of Great-Britain. Secondly, That in looking forwards to the possible contingency of a new war, a contingency perhaps not far remote, the prospect of the burthens, which the gentry and people of this Kingdom must then sustain, in addition to those, which now lie so heavy upon them, is so melancholy and dreadful, that we cannot but feel it, a most indispensable duty, to ease them as much as is possible, by a due and moderate exertion of that great right, which the constitution of this realm has vested in the Parliament, to provide for the safety of all, by a proportionable charge upon all, equally and indifferently laid. We likewise apprehend, that a partial exemption of our Colonies from any exercise of this right by the British Legislature, would be thought so invidious, and so unjust to the other subjects of the Crown of Great Britain, as to alienate the hearts of these from their Countrymen residing in America, to the great detriment of the latter, who have on many occasions received, and may again want
assist-

assistance, from the generous warmth of their affection.

7thly, Because, the reasons assigned in the public resolutions of the Provincial Assemblies, in the North American Colonies, for their disobeying the Stamp Act, viz. " That they are not represented in the Parliament of Great Britain," extends to all other laws, of what nature soever, which that Parliament has enacted, or shall enact, to bind them in times to come, and must (if admitted) set them absolutely free from any obedience to the power of the British Legislature. We likewise observe, that in a letter to Mr. Secretary Conway, dated the 12th of October 1765; the commander in chief of his Majesty's forces in North America has declared his opinion, " That the Question " is not of the inexpediency of the Stamp Act, " or of the inability of the Colonies to pay the " Tax; but that it is unconstitutional and contrary to their Rights, supporting the independence of the Provinces, and not subject " to the legislative power of Great Britain." It is moreover affirmed, in a letter to Mr. Conway, dated 7th November, " That the people in general are averse to Taxes of any " kind; and that the merchants of that place " think they have a right to every freedom of " trade which the subjects of Great Britain " now enjoy." This opinion of theirs strikes directly at the Act of Navigation, and other subsequent laws, which from time to time have been made in the wise policy of that Act; and should they ever be encouraged to procure for

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themselves that absolute freedom of trade, which they appear to desire, our plantations would become, not only of no benefit, but in the highest degree prejudicial to the commerce and welfare of their Mother-country ; nor is it easy to conceive a greater encouragement, than the repealing of a law, opposed by them on such principles, and with so much contempt of the Sovereignty of the British Legislature.

8^{thly}, Because, the appearance of weakness and timidity in the Government and Parliament of this kingdom, which a concession of this nature may too probably carry with it, has a manifest tendency to draw on further insults, and by lessening the respect of all his Majesty's subjects to the dignity of his Crown, and authority of his Laws, throw the whole British empire into a miserable state of confusion and anarchy, with which it seems by many symptoms to be dangerously threatened : and this is the more to be feared, as the plea of our North American Colonies, that, not being represented in the Parliament of Great Britain, they ought not to pay Taxes imposed or levied upon them by the authority thereof, may by the same reasoning be extended to all persons in this Island, who do not actually vote for Members of Parliament ; nor can we help apprehending, that the opinion of some countenance being given to such notions by the Legislature itself, in consenting to this Bill for the Repeal of the Stamp Act, may greatly promote the contagion of a most dangerous doctrine, destructive to all Government, which has spread
itself

itself over all our North American Colonies, that the obedience of the subject is not due to the Laws and Legislature of the Realm, farther than he in his private judgment shall think it conformable to the ideas he has formed of a free constitution.

9thly, Because, we think it no effectual guard, or security, against this danger, that the Parliament has declared in the resolutions of both Houses, passed during this session, and now reduced into a Bill, That such notions are ill founded; as men will always look more to deeds than words, and may therefore incline to believe, that the insurrections in our Colonies, excited by those notions, having so far proved successful, as to attain the very point, at which they aimed, the immediate repeal of the Stamp Act, without any previous submission on the part of the Colonies; the Legislature has in fact submitted to them, and has only more grievously injured its own dignity and authority, by verbally asserting that Right, which it substantially yields up to their Opposition. The reasons assigned for this concession render it still more alarming, as they arise from an illegal and hostile combination of the people of America, to distress and starve our Manufacturers, and to with-hold from our Merchants the payment of their just debts: the former of which measures has only been practised in open war between two States; and the latter, we believe, not even in that situation, either by the public or by individuals, among the civilized

nations of Europe, in modern times. If this unprecedented plan of intimidation shall meet with success, it is easy to foresee, that the practice of it for other and still greater objects will frequently be renewed, and our manufacturers and merchants reduced to the like, and more permanent distress: we cannot therefore but wish, that some more eligible method, consistent with their future safety and our dignity, had been taken by Parliament, to shew our tender concern and compassion for their sufferings, and to discourage any other such unwarrantable attempts; which we are fully persuaded would have been very practicable, with due care and attention, and at an expence very inferior to the importance of the object.

Lastly, Because, we are convinced from the unanimous testimony of the Governors, and other officers of the Crown in America, that if, by a most unhappy delay and neglect to provide for the due execution of the law, and arm the Government there with proper orders and powers, repeatedly called for in vain, these disturbances had not been continued and encreased, they might easily have been quieted before they had attained to any dangerous height; and we cannot, without feeling the most lively sense of grief and indignation, hear arguments drawn from the progress of evils, which should and might have been stopped in their first and feeble beginnings, used for the still greater evil of sacrificing to a present relief the highest permanent interests, and the whole Majesty, Power,
and

and Reputation of Government : This afflicts us the more deeply, because it appears from many letters, that this law, if properly supported by Government, would from the peculiar circumstances attending the disobedience to it, execute itself without bloodshed. And it is said in one of the letters to Mr. Secretary Conway, " That the principal view is to intimidate the Parliament ; but that if it be thought prudent to enforce their authority, the people dare not oppose a vigorous resolution of the Parliament of Great Britain." That vigorous resolution has not yet been found in the Parliament ; and we greatly fear, that the want of it will certainly produce one of these two fatal consequences ; either that the repeal of this law will in effect annul and abrogate all other laws and statutes relating to our Colonies, and particularly the Acts that restrain or limit their Commerce, of which they are most impatient ; or, if we should hereafter attempt to enforce the execution of those laws against their will, and by virtue of an authority, which they have dared to insult with impunity and success, that endeavour will bring upon us all those evils and inconveniencies, to the fear of which we now sacrifice the Sovereignty of the Realm ; and this at a time when the strength of our Colonies, as well as their desire of a total independence on the Legislature and Government of their Mother-country, may be greatly augmented, and when the circumstances and dispositions of the other powers of Europe,

Europe, may render the contest far more dangerous and formidable to this Kingdom.

Bedford
Coventry
Bridgewater
Temple
Buckingham
Wentworth
Sandwich
Bolingbroke
Marlborough
W. Gloucester
Ker
Leigh
Bangor
Waldegrave
Aylesford
Gower
Weymouth

Scarfdale
Lyttelton
Dunk Hallifax
Eglington
Suffolk and Berkshire
Abercorn
Vere
Trevor
Thomas Bristol
Ferrers
Grosvenor
Townshend
Dudley and Ward
Charles Carlisle
Powis
Hyde.

SECOND

SECOND PROTEST.

Die Lunæ, 17^o Martii, 1766.

The Order of the Day being read for the third reading of the Bill, entituled, *An Act to repeal an act made in the last session of parliament, entituled, An Act for granting and applying certain Stamp Duties, and other duties in the British Colonies and Plantations in America, towards further defraying the expences of defending, protecting, and securing the same, and for amending such parts of the several acts of parliament relating to the Trade and Revenues of the said Colonies and Plantations, as direct the manner of Determining and Recovering the Penalties and Forfeitures therein mentioned.* Then the said Bill was read a third Time, and it being proposed to pass the Bill, the same was objected to. After some Debate thereupon, the Question was put, Whether the said Bill shall pass: It was resolved in the Affirmative.

Dissentient,

1st, **B**ECAUSE we think, that the Declaratory Bill we pass last week, cannot possibly obviate the growing mischiefs in America, where it may seem calculated only to deceive the people of Great Britain, by holding forth a delusive and nugatory affirmance of the Legislative Right of this Kingdom, whilst the enacting part of it does no more than abrogate the Resolutions of the House of Representatives in the North American Colonies, which have not in themselves the least colour of authority; and declares that, which is apparently and certainly criminal, only null and void.

2^{dly}, Because the particular Objections, which have been made to the Stamp Act in North America, and which have been adopted in the course of the Debates upon this Bill for repealing it, are in fact contradicted by undeniable Evidence upon our Table; it having been urged, First, That all the money to be collected
by

by this Tax was to be annually remitted hither, and that the North American Colonies would thereby be drained of all their specie; and Secondly, That the institution of Vice Admiralty Courts in those Colonies, for the recovery of Penalties upon Revenue Laws without Juries, is a novel practice, by means of which his Majesty's Subjects in those dominions, " would
 " be deprived of one of their most valuable Liberties, Trials by Juries, and in this respect
 " distinguished from their Fellow Subjects in
 " Great Britain;" and would likewise be liable to the greatest Inconvenience, Vexation and Injustice, through the option left to any Prosecutor to call them from one end of that extensive Continent to the other; and through the temptation to the Judge, to condemn rather than to acquit, from his being paid by poundage of the condemnation-money: Whereas, with regard to the first of these objections, it appears by the minute of the late Board of Treasury laid before this House, and dated on the 9th day of July last, that the fullest Directions had been sent to the several officers of the Revenue, " that in order to obviate the inconvenience of bringing into this Kingdom the
 " money to be raised by the Stamp Duties, all
 " the produce of the American Duties arising
 " or to arise, by virtue of any British Act of
 " Parliament, should, from time to time, be
 " paid to the Deputy Pay-master *in America*,
 " to defray the subsistence of the troops, and
 " any military expences incurred in the Colonies:" and with regard to the second objection,

tion, it is manifest, from sundry Acts of Parliament, that a jurisdiction has been assigned to the Judges of those Courts, for the recovery of penalties upon the Laws of Revenue and of Trade, without Juries, for near a century past, from the consideration (as we apprehend) that in some of the Colonies they are the only Judges not elected by the people : and so far it is from being true, that the Subjects in North America, by being deprived in these Cases of Trials by Juries, were in that respect distinguished from their Fellow-subjects in Great Britain ; that, in this very instance of the Stamp Duties, the Penalties, which by the American Stamp Act were made recoverable without a Jury before a Judge of the Vice Admiralty Court, are, by the Laws now in force for collecting the Stamp Duties in Great Britain, recoverable also without a Jury, before two Justices of the Peace, with the like Powers in both cases, which we earnestly wish were not still more necessary for the collection of the Public Revenue in America than in Great Britain ; and which we should be most desirous, if possible, to alleviate in both countries : with this view, and to take away all just occasion for discontent, we were very glad to find by the Representation from the late Commissioners of the Treasury to his Majesty in Council, dated on the 4th day of *July* last, that the strictest attention had been given by that Board to prevent the inconvenience and injustice above-mentioned, by a plan to establish three different Courts of Vice Admiralty at the most convenient Places, with

proper Districts annexed to each ; and to give the Judges sufficient and Honorable Salaries in lieu of all poundage and fees whatsoever : but we cannot observe, without the highest concern and surprize, that this representation, founded upon a clause inserted in the Stamp Act for this very purpose, and expressly calculated to relieve his Majesty's Subjects in North America from many unnecessary hardships and oppressions, to which they are now liable by many other Laws still subsisting, should be totally disregarded for several months, and be suffered to remain unexecuted in every part of it even to this day ; and that no notice whatever should be taken, in any of the dispatches from the present Administration to the Governors of the Colonies in North America, of the timely care which had been employed to obviate the objections raised on both those Heads : especially, as it is notorious, that the measures to be pursued, in consequence of that Minute and Representation, had been fully opened and approved in Parliament, at the time when the Stamp Act was proposed ; and as the total neglect of it has given occasion to great Clamour and Dissatisfaction in the Colonies. We cannot help further observing, that as the Stamp Act was not to take place till the 1st of November, if the Parliament had been called early, their determinations, either for enforcing or repealing that Law, would probably have delivered the Merchants and Manufacturers here from all the difficulties and distress to which they have been for so many months

months exposed; nor would the disorders in America, where all government is prostrate, have risen to so great a height, or taken so deep a root.

3^{dly}, Because, the Argument which has been used in favour of this Bill of Repeal, that the experiment of the Stamp Act has been tried, and has failed, is extremely ill founded; as it manifestly appears from the whole tenor of the Papers laid before us, that if this experiment had been properly tried, with the same zeal for its success with which it was first proposed, it would not have failed in any of the Colonies: and that this was the opinion of the greater part of the Governors in North America, and of many of the most intelligent and respectable persons in those provinces, for some time after this Act was passed, is evident beyond a doubt, from the Letters of the former now upon our Table, and from the latter having applied for, and accepted the Office of Distributors of the Stamps under that Act, which they certainly would not have done, and thereby have exposed their Lives and Fortunes to the violence and outrages which they have since undergone, if they had then thought the success of this measure in any degree precarious: nor have we heard of any impracticability attending this Law in Jamaica and Barbadoes, and some other of the West India islands, or in those of our Colonies in North America, where it has been executed.

4^{thly}, Because, a Precedent of the two Houses of Parliament lending their Power, from motives

of Fear or Impatience under a present uneasiness, to overturn in one month a Plan of Measures, undertaken with their warmest Approbation and Concurrence, after the most mature deliberation of two years together, for the improvement of our Revenue, and the relief of our People, will effectually discourage all officers of the Crown in America from doing their duty, and executing the Laws of this Kingdom; and is enough to deter future Ministers, in any circumstances of distress or danger to their Country, from opposing their fortitude and zeal for the service of the Public, to strong Combinations of private and particular Interests, to the Clamour of Multitudes, or the Malice of Faction; which must necessarily bring on such a Weakness and Pusillanimity in the Administration of Government, as will soon end in the Downfall and Ruin of the State.

Lastly, Because, the Repeal of this Law under the present Circumstances, will, we fear, not only surrender the Honour and essential Interests of the Kingdom now and for ever, both at home and abroad, but will also deeply affect the fundamental Principles of our Constitution; for if we pass this Bill against our Opinion, from the Threats and Compulsion publicly avowed in our Colonies, and enforced by the most unjustifiable means within Great Britain, we disclaim that Legislative Authority over the subjects, which we own ourselves unable to maintain. If we give our Consent to it here, without a full conviction that it is right, merely because it has passed the other House, by declining

clining to do our duty on the most important occasion which can ever present itself, and where our interposition, for many obvious Reasons, would be peculiarly proper ; we in effect annihilate this branch of the Legislature, and vote ourselves useless. Or if by passing this Bill, we mean to justify those, who in America, and even in Great Britain, have treated a series of British Acts of Parliament as so many Acts of *Tyranny and Oppression*, which it is scarcely criminal to resist ; or those officers of the Crown, who, under the eye, and with the knowledge of Government, have taken upon themselves, whilst the Parliament was Sitting, without its Consent, to suspend the Execution of the Stamp Act, by admitting Ships from the Colonies, with unstampt Clearances, to an Entry, in direct Violation of it, which from the Papers upon our Table appears to have been done ; we shall then give our approbation to an open breach of the first Article of that great Palladium of our Liberties, the Bill of Rights ; by which it is declared, “ That the pretended
 “ power of suspending of Laws, or the execution of Laws, by regal Authority, without consent of Parliament, is illegal.” Lastly, If we ground our Proceedings upon the Opinion of those who have contended in this House, that from the Constitution of our Colonies they ought never to be taxed, even for their own immediate Defence, we fear that such a Declaration, by which near a fifth part of the subjects of Great Britain, who by the Acts of Parliament to restrain the Pressing of
 Seamen

Seamen in America, are already exempted from furnishing Men to our Navy, are to be for ever exempted from contributing their share towards their own support in money likewise, will, from the flagrant Partiality and Injustice of it, either depopulate this Kingdom, or shake the basis of Equality, and of that Original Compact, upon which every Society is founded; and as we believe, that there is no instance of such a permanent Exemption of so large a body of the subjects of any State in any History, antient or modern, we are extremely apprehensive of the fatal Consequences of this unhappy Measure; to which, for these Reasons, in addition to those contained in the Protest of the 11th of this month, our Duty to the King, and Justice to our Country, oblige us to enter this our Solemn Dissent.

Temple
Abercorn
Scarfsdale
J. Bangor
Trevor
Hyde
Marlborough
Sandwich
Charles Carlisle
Weymouth
Thomas Bristol
W. Gloucester
Buckinghamshire
R. Duresme

Dudley and Ward
Suffolk and Berkshire
Leigh
Bridgewater
Gower
Grosvenor
Powis
Ker
Lyttelton
Essex
Ferrers
Aylesford
Vere
Eglintoun.

A LIST

**A LIST of the LORDS who Voted
against the Repeal of the American Stamp
Act, March 10, 1766.**

His Royal Highness the Duke
of YORKE, *first Brother to
the King*

Duke of Beaufort

Duke of Bedford. *Protested.*

Duke of Marlborough. *Pro.*

Duke of Ancaster, *Master
of the Horse to the Queen.*

Duke of Bridgewater. *Pro.*

Earl of Pembroke, *Col. of the
first Regiment of Dragoons.*

Earl of Suffolk and Berk-
shire. *Pro.*

Earl of Denbigh, *a Lord of
the King's Bedchamber*

Earl of Sandwich. *Pro.*

Earl of Lichfield, *Captain of
the Band of Pensioners, &c.*

Earl of Coventry, *a Lord of
the King's Bedchamber.* *Pro.*

Earl of Oxford, *a Lord of
the King's Bedchamber.*

Earl Ferrers, *a Captain in the
Royal Navy.* *Pro.*

Earl of Aylesford. *Pro.*

Earl of Hallifax. *Pro.*

Earl of Macclesfield

Earl Ker (Duke of Roxburgh
in Scotland) *Pro.*

Earl Waldegrave, *Governor
of Plymouth, and Col. of the
second Regiment of Dra-
goons.* *Pro.*

Earl of Orford, *a Lord of the
King's Bedchamber, and*

*Ranger of St. James's and
Hyde Parks*

Earl of Warwick

Earl Gower. *Pro.*

Earl of Buckinghamshire, *a
Lord of the King's Bed-
chamber.* *Pro.*

Earl of Powis. *Pro.*

Earl of Northumberland,
*Vice Admiral of all Ame-
rica.*

Earl Temple. *Pro.*

Earl Harcourt, *Chamberlain
to the Queen*

Earl of Guildford

Earl Talbot, *Steward of the
King's Household*

Viscount Say and Sele

Viscount Townshend, *Lieu-
tenant General of the Ord-
nance, and Colonel of the
28th Regiment of Foot.* *Pro.*

Viscount Weymouth. *Pro.*

Viscount Bolingbroke. *Pro.*

Viscount Wentworth. *Pro.*

Viscount Dudley and Ward.
Pro.

Lord Le Despencer

Lord Botetourt

Lord Leigh. *Pro.*

Lord Byron

Lord Trevor. *Pro.*

Lord Montfort

Lord Vere. *Pro.*

Lord Hyde. *Pro.*

Lord

Lord Mansfield, <i>Chief Justice of the King's Bench</i>	Bishop of Bangor. <i>Pro.</i>
Lord Lyttelton. <i>Pro.</i>	Bishop of Gloucester. <i>Pro.</i>
Lord Grosvenor. <i>Pro.</i>	Bishop of Carlisle. <i>Pro.</i>
Lord Scarisdale. <i>Pro.</i>	Bishop of Bristol. <i>Pro.</i> 62
Lord Beaulieu	Proxies.
Earl of Eglintoun, <i>a Lord of the King's Bedchamber.</i>	Duke of Cleveland, <i>Comptroller of the Seal, &c.</i>
Earl of Abercorn. <i>Pro.</i>	* Earl of Essex. <i>Pro.</i> second protest
Earl of Loudon, <i>Governor of Edinburgh Castle, and Col. of the 30th Regiment of Foot</i>	Earl of Tankerville
Earl of March, <i>a Lord of the King's Bedchamber</i>	Earl of Darlington, <i>Master of the Jewel Office, and Governor of Carlisle.</i>
Earl of Bute, <i>Ranger of Richmond Park</i>	Lord Craven
Lord Cathcart, <i>first Lord of Police in Scotland</i>	Lord Fortescue
* Bishop of Durham. <i>Pro.</i>	Lord Vernon
second protest	Earl of Sutherland, <i>Col. of a Bat. of Highlanders</i>
Bishop of Chester	Earl of Rothes, <i>Col. of the 3d Regiment of Foot-guards, Gov. of Duncannon, &c.</i>
Bishop of Rochester	Bishop of Hereford. 10.

* The Bishop of Durham was absent at the time of the protestation on the 11th; but his Lordship signed the second protest, as did also the Earl of Essex, who had first voted by Proxy.

F I N I S.

T H E
P R I V I L E G E S
O F T H E
Island of J A M A I C A
V I N D I C A T E D;
W I T H A N
I M P A R T I A L N A R R A T I V E

OF THE LATE DISPUTE BETWEEN THE

Governor and House of Representatives,

UPON THE CASE OF

Mr. O L Y P H A N T,

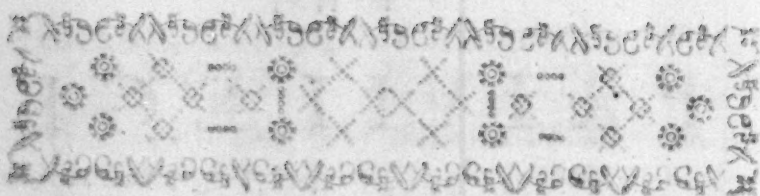
A Member of that House.

*Ego certe, quin cum ipsa re bellum geram; hoc
est, cum regno, et imperiis extraordinariis,
et dominatione, et potentia, quæ supra leges
esse velit.*

Epist Bruti ad Atticum.

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Exchange. 1766.

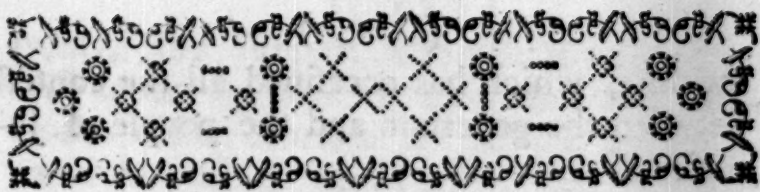
[Price Two Shillings and Sixpence]



T H E

P R E F A C E.

THE following letter was not origi-
nally intended for the public, but
for the satisfaction of a gentleman at
whose request it was written, and whose
knowledge of the subject made it unnecessary
to dwell upon any circumstances that did
not immediately relate to the character's right
of discharging a commitment by the Assize-
day. As that gentleman has thought pro-
per to commit it to the press, and the letter
is by this means become the property of
the public, it will not, it is pre-
sumed, be thought impertinent in a preface
to enlarge upon the steps that led to, and
happened in consequence of that unlucky
measure.



T H E

P R E F A C E.

THE following letter was not originally intended for the public, but for the satisfaction of a gentleman at whose request it was written; and whose knowledge of the subject made it unnecessary to dwell upon any circumstances, that did not immediately relate to the chancellor's right of discharging a commitment by the Assembly. As that gentleman has thought proper to commit it to the press, and the letter is by this means become the property of the public, it will not, it is presumed, be thought impertinent in a preface, to enlarge upon the steps that led to, and happened in consequence of that unlucky
a measure,

measure, which has occasioned all the contest between the governor and the people of Jamaica.

It is the common practice of men, who are engaged in the wrong side of a controversy, to keep as much as possible from the main question, and divert the attention of the public to some circumstance, to which it does not relate; especially, if they can fix upon one that is popular. This art has been very fully put in practice in the present controversy, as the honest endeavours of the assembly, to repel a most unprecented and unconstitutional attack upon their jurisdiction, has been falsely and impudently represented, both here and in England, as a mean and scandalous attempt to screen their members, from the payment of their just debts, by assuming privileges, to which they are not entitled. A full and plain representation of facts, will be the best way of doing justice in this case, as it will place the conduct of the contending parties in their proper light, and enable the impartial world to form a right judgment of the controversy. Such a representation is here endeavoured to be given, and will, it is hoped, not be unacceptable to the reader.

The sessions of assembly which began the 17th of OCTOBER, 1764. was opened in the usual manner, with a speech from the governor; and never did there surely come together, an assembly better disposed to carry on the public business with dispatch and harmony,

mony, and support administration; for it will appear by their minutes, that they were, in the whole course of the session, as unanimous in raising the supplies, and doing all that his excellency recommended to them, as they were in defending the rights of the people when they were, towards the latter end of it, so unhappily invaded. Such was the general disposition to oblige the governor, that nothing was refused, which he asked; scarcely any thing omitted, which he seemed desirous of having done; insomuch that, although there had been many rumours of dissatisfaction among the suitors of the court of chancery, for want of this court's being more frequently held; yet, the governor having in his speech thought proper to mention, how many causes he had dispatched, and how few there remained upon the list undetermined, the house would not enter into any examination of the facts, but took them upon the governor's word; and in their address to his speech, echoed back all the compliments and praise, that he could expect or wish for, from this part of it.

There was scarcely a debate, nor any thing that look'd like party in the house; and business was in great forwardness on the 8th of December, when a complaint was made of a breach of privilege, committed by Richard Thomas Wilson, a deputy marshal's deputy, in executing a writ on the coach-horses of John Olyphant, a member of the house, in

consequence of which, he, and Pierce Cooke, and Lauchlan M'Neil (who appeared to be aiding and assisting in executing the said writ;) were, by order of the house, severally taken into custody for breach of privilege. The generality of the members were, indeed, sorry to see a matter of this kind brought before the house, especially so late in the season, as it would retard the progress of more important business, and protract the sessions. The case of a member's availing himself of this privilege, was very far from being favoured by the house; and it is a truth, that a very great majority of the members were against entertaining the matter, if they could with any justice have avoided it; insomuch, that they set themselves to enquire, whether the privilege in question was such, as every member had a constitutional right to. Upon this occasion, the ablest lawyers in the house were consulted, and many volumes of law books were brought in; from which it did appear, to the conviction of every man in the house, that the privilege, claimed by Mr. Olyphant, was a lawful and constitutional right; and if he insisted upon it, that it could not, with justice or propriety, be refused him. He did insist upon it. What could the house do? They ordered the delinquents into custody, but still without any asperity towards them, and with so little intention of using them with severity or harshness, that the house would most certainly have released them,

them, upon the slightest concession: and Pierce Cooke, one of the parties and the plaintiff in the action, was told by several of the members, that he had only to petition (according to the forms, which the house prescribes, in the case of all those, who are in custody and not members) and set forth, that he did not intend to offend the house, and he would be discharged. This easy method of getting released was declined, and so low was the assembly held, by the said Pierce Cooke and Laughlan M'Neil, that they did not attempt to make any application for their liberty to the house, but applied, in the first instance to the chancellor for an Habeas Corpus.

All courts of justice (even the meanest quarter sessions) have a power of committing for contempt, and it is a piece of decency generally observed among themselves, that no court will discharge a commitment by another for contempt, in the first instance, and where the party committed has not made application to the court, by which he was committed. It was not imagined, that the governor would attempt to degrade, below the meanest quarter sessions, an assembly, which had ever shewn themselves ready to support his administration and consult his honour. A man in his station, possessed of a very moderate share of spirit and good sense, might with great ease and dignity to himself, and only by consulting the respect due to the

representatives of the people, have repressed the insolence of these men, and insured a continuance of that peace and harmony in the country, which had, till this unhappy period, distinguished his excellency's administration, if, when he was first applied to, he had signified to the delinquents, that it was their duty to go by petition to the house, and that their declining to do so was an insult upon the house, which he could not, and would not give any countenance to, it is hardly possible, that they would have persisted in their insolence. Unhappily another method was adopted. The governor, after having granted an Habeas Corpus, did on the 18th of December prorogue the assembly until the next day; having first passed some of the bills, that were before him, and rejected others, particularly one of the money bills for subsisting the troops.

It appeared to the members, that this prorogation was made by the governor, to avoid his determining upon the commitment of these men; and it was therefore considered by them, as a tacit declaration of his power, as chancellor, to examine and discharge their commitments; and most certainly, as an encouragement to the delinquents, to persist in their insolence. The assembly found themselves, therefore, called upon by an indispensable duty, to assert their rights and vindicate their jurisdiction. It is part of the 26th of the standing rules of the house, that all
per-

persons in custody at the time of a prorogation, shall be taken into custody the next session, and that the speaker issue his warrant accordingly.

In compliance with this rule, when the house met on the 19th of December, Richard Thomas Wilson, Pierce Cook, and Lauchlan M'Neil, were again taken into custody, and in compliance with what they owed themselves and their country, the house came unanimously to several resolutions, declaratory of their legal rights and privileges, which the reader will see in the appendix; one of these only is inserted here, as it will shew the temper and moderation of the house, and how far they were from claiming privileges, inconsistent with justice or the rules of the constitution. It is this.

Resolved, Nem. Con. That no member of this house hath any privilege in regard to his goods and chattles, except such as are necessary for his accommodation, during his attendance on the house.

After vindicating, in this calm, orderly and moderate manner, the constitution and authority of the house, they went with the utmost alacrity and dispatch into the public business, and were proceeding, with all possible application, to bring up the time that

was lost by the prorogation, and restore matters to their former condition. Every man wished and hoped, that the delinquents would have come to a just sense of their disrespect to the Assembly; and a very great majority of the house would, in that case, have agreed to release them. But these men, encouraged by what had passed, persisted with the utmost contempt, in declining to make any application to the assembly; and again applied to the governor, as chancellor, for an Habeas Corpus, which was granted.

Very few in the assembly imagined, that the chancellor would venture upon so desperate a measure, as that of discharging a commitment by the assembly; no considering person could reasonably suppose, that a man of the governor's reputed understanding and calmness, wou'd, upon mature deliberation, do an act, that must unavoidably force the assembly into measures, destructive of that harmony, which had till then so happily united their councils, in support of his administration.

Nothing could exceed the astonishment and concern of the assembly, when they were informed by their messenger, that the chancellor had released the prisoners. Hitherto, the assembly were only endeavouring to bring two private men, who had been guilty of a breach of privilege and contempt of the house, to an acknowledgement of their offence, in the ordinary course of their JURISDICTION.

They

They were NOW to defend themselves, against an attack made upon their JURISDICTION, which they could not submit to, without betraying their constituents, and giving up the only means they had, of supporting their own authority or protecting the people. They immediately resolved themselves into a committee of the whole house, to consider of the best means of defending their constitution, from the danger to which it was exposed; and they came to several resolutions, the last of which was, To remonstrate to his majesty, by address, against the arbitrary and illegal proceedings of the Chancellor, and to implore his protection. A committee was appointed to draw up this address, which would have been compleated the next day; but before the house could meet, they were prorogued by Proclamation and afterwards dissolved.*

From what has been said, it will appear, how little foundation there is for charging the assembly, with contending only for a privilege from arrests; since it is evident, that they never had any contest with the governor, upon that subject.

There are two other charges brought, with as little foundation, against the gentlemen, who composed the majority of the late assemblies, which it will be proper to clear up and explain; the one is, that they refused to provide for the troops; and the other, that

* VIDE APPENDIX.

b

they

they did force the governor into the three dissolutions, which have followed this unhappy contest.

Against the first of these, the minutes of the assembly are appealed to, and the reader is desired to cast his eye over the extracts from those minutes, in the appendix to this work; from which it will appear, that, in the session, which preceded the first dissolution, the money bills were in as great forwardness, as could be expected. At the time of the dissolution, two of them had been twice read, and stood committed; and the third, which was, A BILL FOR RAISING SEVERAL SUMS OF MONEY, AND APPLYING THE SAME TO SEVERAL USES, FOR SUBSISTING FOR ONE YEAR THE OFFICERS AND SOLDIERS OF HIS MAJESTY'S 36th REGIMENT OF FOOT, had passed the assembly and Council, and was rejected by the governor; for what reason is best known to himself. It was an annual bill, and there were, it is true, some alterations made in it this year, which the governor, it is said, disliked, and which some gentlemen of the house for that reason, wished and endeavoured to get dropt: the third reading of the bill was therefore for some days postponed; but as the alterations were entirely in FAVOR of the soldiers, their wives and children, they were so popular, that those, who were desirous of having them dropt, found a great majority of the assembly determined to per-

sist

list in them. There is no maxim better known or established in our constitution, than that the people by their representatives, have the sole right of raising and applying money in what proportions and in what modes they think proper ; the other two branches of the legislature, having only a bare negative or affirmative, without any right of proposing or making alterations to a money bill. The governor could, therefore, have no constitutional right, of objecting to the aforesaid bill for subsisting the troops, and it is solely owing to him, that the soldiers were not provided for, in this session. It is owing to him too, that they were not provided for, by the last assembly, since it will appear that they were determined to give this a preference to all other business ; but were dissolved, before they could proceed to any.

Nothing can be more unjust, than to charge the assemblies with having given occasion to these dissolutions ; and this will appear, from a short review of their proceedings.

It has been shewn, that the first assembly was in the greatest harmony with the governor ; that they had made a considerable progress in the Business of the session, and in raising the supplies ; that they were called upon by a complaint of one of their members, to punish two men, who had violated the privileges of the house ; and that, their proceedings, in this matter, were not in the spirit of oppression, but according to the forms of the house, and the ordinary course of their jurisdiction. This being the case,

what call, what pretence had the governor to interfere, between the justice of the house and these delinquents? by declining all application to the assembly, and applying, in the first instance, to the chancellor for an Habeas Corpus, they added to their former transgression, the highest insolence and contempt, that could be offered to that body. It is the governor's duty to maintain the respect, that is due to each branch of the legislature: If the assembly were acting against these men oppressively, the governor, as the king's representative, had a constitutional power of interpoling by a dissolution; but in no case had he, as chancellor, any right to judge of the commitments of the assembly, their's being a superior jurisdiction. This he ought to have known; and there would have been dignity in his discouraging the insolence of this application; there would have been justice and propriety in remanding the delinquents, as chancellor. The governor acted the reverse of all this; he took upon himself, as chancellor, to examine a commitment by the assembly and to discharge it, opening thereby, a door to future applications of this kind, and endeavouring, as much as in him lay, to bring the authority of that house into an unconstitutional dependence upon the court of chancery, and into contempt with the people. The assembly, reduced to the alternative either of betraying the people and giving up their defence, or of opposing the attack by every means, which they could

con-

constitutionally employ, were, as has been
 shewn, proceeding vigorously to vindicate
 their injured jurisdiction; they could not with
 dignity, proceed to any business, whilst this
 remained unvindicated, from such an unex-
 ampled violation thereof. They resolved, by
 address, to remonstrate to his majesty, against
 this arbitrary determination of the chancellor,
 and they were, as has been seen, prevented
 from the exercise of that common right of every
 subject, by a sudden dissolution.

A new assembly was called to meet in
 March 1765: And it is justice to the gover-
 nor to say, that no undue arts or influence
 were employed in the Elections; but the peo-
 ple were left to a free choice. The con-
 sequence of this was, that the new assembly
 was composed, like the old, of men zealous
 for the constitution and liberties of their
 country. Upon their meeting, the speaker
 did think it incumbent upon him to ask for
 the usual privileges in a manner more speci-
 fic than ordinary, yet still in such, as was
 well warranted by parliamentary precedents;
 but tho' the terms in which the governors
 granted them, were doubtful and limited
 enough, to admit of exceptions in willing
 minds, so unwilling was the assembly to re-
 vive the business of privilege, that they ac-
 quiesced in silence, nor was there ever any
 attempt made, in this or the assembly, which
 was afterwards called to revive the subject or
 take the delinquents into custody. But the
 record

record of the chancellor's determination still remain'd, as a yoke about their necks, and they could not with dignity to themselves or justice to their constituents, proceed to any business, whilst that was suffered to remain. Hoping that time and reflection had brought the governor to a just sense of the injury he had done the constitution, and thinking it no way below the dignity of any man, to acknowledge errors, upon conviction, and make reparation for injuries; they address'd his excellency, setting forth the ill consequences of the determination in question, and desiring he would give orders for having it expunged; and for this, the governor prorogued them forthwith, to a long day, and they were afterwards dissolved.

After an intermission of some months, another assembly was called, and much pains were taken and many arts tried, in the elections, to get such an one returned, as would answer certain purposes. It was asserted, with great confidence, during the elections, that his M—— in council had determined against us; and that, if a new assembly should adopt the maxims of the old, we should lose our legislature; and it was suggested to the people, that the members of the two last assemblies only meant to elude their creditors, and that the contest between the governor and them, was merely about a privilege from arrests. But all these unfair arts and these false and impertinent suggestions, were insufficient to mislead the people from their true interests and a very great majority
 218 was

was returned for this assembly, of men determined to support and vindicate the constitution. It is true, that the unhappy condition of the soldiers raised such a general compassion in the minds of men, that every member came determined to provide for the subsistence of the troops, and to give this a preference to all other business; it being a matter, for which the faith of the country stood engaged. In this disposition, the assembly met on the 13th of August; and Mr. Charles Price, jun. who was speaker of the two last assemblies, was unanimously chosen to preside in this.

After he was presented and approved of, he did think proper to decline asking for the usual privileges; and he was probably moved to do so, as well, from an indignation at the foul aspersions, which had been cast upon former assemblies, as to take away all occasions which any claim of privilege might give, to interrupt the public business. Motives, sure very laudable and becoming! After some embarrassment, which this visibly occasion'd, his excellency opened the sessions with a speech, wherein he recommended to the house to proceed to business; but before they could do so, and even before they left his presence, they were adjourned from 13th to the 15th of August.

In this interval, a paper, said to be a copy of the order or resolution of his M—— in council, before mentioned, was shewn to several of the members, by an officer of the crown, who yet refused to part with it, or
give

give a copy of it; with what view, is not hard to guess. But this expedient did not probably answer its purpose, for on the 15th, the speaker had not taken the chair long, when the house was sent for up to attend the governor; there, to the astonishment of every one, his excellency, after putting the speaker in mind of his having omitted to ask for the usual privileges, on the first day, demanded of him, whether he would then ask for them? to which he was answered in the negative. His excellency then put the same question a second time and the speaker said, I SHALL NOT. He might have added that he could not, or ought not; since it is most certain, that he could then do no act without the approbation and command of the house. If the governor had a mind to know the sense of the assembly upon the speaker's conduct, the regular way of coming to this knowledge was, by message to the house. It is amazing, that a man of Mr. L——'s experience in business, should take so irregular and unparliamentary a step. It is more so, that he should suddenly dissolve an assembly, so unanimously disposed to provide for the troops; only for a mere act of the speaker's, which the house neither consented to, nor a vowed, and which they could not therefore, with any justice, be made answerable for. But so it happened; they were immediately, for this avowed reason, Dissolved; and the world is to judge, whether they gave any cause for this dissolution.

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The reader will observe, that two assemblies were thus dissolved, for asserting their liberties and vindicating their violated jurisdiction; he will see, no doubt, with astonishment, a third dissolved, not for the same Reason, not for any act of their own, but because their speaker omitted asking for the usual privileges; even those privileges, which they had so often been reproached with meanly availing themselves of. There is an inconsistency in this part of the speaker's conduct, very difficult to be accounted for; but an obstinate perseverance in error, will ever lead men into inconsistencies. Let it, for argument sake, be supposed, that the speaker was wrong; yet how could this affect the assembly? The custom of the speaker's asking for privilege, is a mere act of manners; an act of the speaker's own, upon which he can take no instructions from the house; for, after the choice of a speaker, the house, by the rules of parliament, can do no business, until he has been approved; after which, and not before, he is the mouth of the house, and can do no act, but by their command; and history informs us, that when Charles the 1st. went into the house of commons, and demanded some questions of the speaker Mr. Lenthall, he answered upon his knees, that he had neither eyes to see, ears to hear, nor tongue to speak, save what he was commanded by the house. This will be further illustrated, by comparing the style, in which the speaker ad-

dressed himself to the king, when asking for privileges, with that, which he uses upon all occasions besides. At all other times, the speaker delivers himself as *By command of the house, and in the name of all the commons of England*; but when he asks for privilege, he does it in the first person and as from himself (*I am a suiter to your majesty*) and upon such occasions, speakers in England have made it one of their requests, that no mistakes or *omission of theirs*, might be imputed as a fault to the house.

From this account of the proceedings of three assemblies, from the beginning of the contest in the first, until the dissolution of the last, the reader will, it is presumed, see, how their conduct has been misrepresented; and particularly, with how much malice and falsehood it has been alledged, that they were only contending with the governor, for an exemption from paying their debts. He will see, that they never had any contest with his excellency about a privilege from arrest; and that when, to avoid such a contest, the speaker declined asking for that privilege, the governor made it a cause for dissolving the last assembly; and he will also see, that their only contest with him has been, about his violating their undoubted jurisdiction. *This, indeed, is the question, which at present divides the governor, from the people of this colony, and the reader will, it is presumed, see, in the following letter, of how much importance it is, to every individual in the community.*

CONCERNING THE
PRIVILEGES, &c.

Dear Sir,

THE unhappy difference between the Governor and Assembly, has already thrown the country into so much confusion, and may in its course have such fatal consequences, that it demands the serious attention of every one, who has any property in Jamaica, or any connexion with it. You and I have frequently in conversation, discussed this subject. I have, since I saw you, considered it with all the attention in my power; and I will, since you desire it, give you, as fully and clearly as I can, my thoughts upon it.

It is needless in this place to give a detail of all those proceedings in Assembly, which led to the commitment of Pierce Cooke and Lauchlen M'Neil, as they have been fully and fairly stated, in an address to the freeholders, published in the St. Jago Intelligencer, since the dissolution of the last Assembly; and every one is possessed of them. I shall however for your satisfaction, annex at the end of

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this letter, a fair extract of them, from the minutes of the Assembly. It will be sufficient here to say, that the House voted said Pierce Cooke and Lauchlen M'Neil guilty of a breach of privilege, for causing a writ to be executed upon the coach horses of Mr. Olyphant, one of their members, whilst the Assembly was sitting; that they were, by virtue of the speaker's warrant * taken into custody by the messenger of the House; and that they were released by the governor, as chancellor, on the return of a writ of *Habeas Corpus*, which he granted upon the statute of 31 Car. II. and that his determination thereon is made a record of the court of Chancery.

The Assembly consider their privileges, as derived to them from their Constituents; and that they are not concessions from the crown, but the right and inheritance of the people; they consider their jurisdiction, in cases of privilege, as complete in their own body, and in such cases, that no other court can have any right to controul their determinations, or discharge their commitments; and they therefore consider this act of the chancellor's, as a dangerous violation of their privileges, and such an encroachment upon their jurisdiction, as would, (if submitted to) strip them of all authority, and disable them from either supporting their own dignity or giving the people of this Colony that protection against arbitrary power, which nothing but a free and independent Assembly can give.

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* For a copy of the warrant and decree, vide the end.

The question here, is not, whether the Assembly have done right or wrong, in ordering those men into custody, (for I hope to shew, that they are the only competent judges of their own privileges) it is, whether the governor, as chancellor, could legally discharge men upon an Habeas Corpus, who were committed by order of the Assembly, for a breach of privilege? but as their right of privilege is founded on a presumption, that the Assembly of this Island holds the same rank, in the system of its own constitution, as a British House of Commons does, in that of our mother country; I will first endeavour to shew, from the most authentick records and authorities, that the privileges and the jurisdiction in question, have ever been exercised and enjoyed by the House of Commons. The instances for my purpose, to be found in the Journals of the Commons, are innumerable; but I shall trouble you with a few only, which are leading cases, and of such authority, that they have ever since been admitted by the House of Commons, as governing precedents; and by all inferior courts, as rules to direct their conduct in such cases.

The first case I shall mention, happened in the time of Henry VIIIth, a time when, the Commons of England holding but an inconsiderable share of the land, the power of the House of Commons was no way comparable to what it is at this day. It is the case of George Ferrers, in 34 Henry VIIIth. and I shall give it you at large, as it is in the parliamentary

liamentary history. It is taken from *Hollingshead*, one of our antient chroniclers, who is the more circumstantial about it, because (says he) as the case has been diversly reported, and is commonly alledged, as a precedent for the privilege of Parliament; he had endeavoured to learn the truth thereof, and to set forth all the circumstances at large, from those, who by their instructions, ought best to know and remember it.

The author tells us the member's name was
 ‘ George Ferrers, Esq; a servant of the king,
 ‘ and elected a burges for the town of Ply-
 ‘ mouth in Devonshire: that one day as he
 ‘ was going to the Parliament House, he was
 ‘ arrested by a process out of the king's bench,
 ‘ at the suit of one White for the sum of two
 ‘ hundred marks, for which he stood engaged
 ‘ as a surety for one Weldon of Salisbury, and
 ‘ carried to the Counter in Broad-Street. And
 ‘ that sir Thomas Moyle, knight, the speaker,
 ‘ being informed of this, acquainted the House
 ‘ with it, who forthwith ordered the serjeant
 ‘ at arms to repair to the said prison, and de-
 ‘ mand the prisoner.

The serjeant went immediately to the
 ‘ Counter; but the clerks and officers there,
 ‘ were so far from delivering the prisoner,
 ‘ that they forcibly resisted the serjeant, broke
 ‘ his mace, and knocked down his servant.
 ‘ During the squabble, the two sheriffs of
 ‘ London, Rowland Hill and Henry Suchcliff,
 ‘ came thither, to whom the serjeant com-
 ‘ plained of this abuse, and of them required
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the delivery of the imprisoned member; but they not only denied to deliver him, but treated the serjeant very contemptuously, and he was forced to return without him to the House.

The Commons, after some debate on the case, soon came to a resolution to send their serjeant to the sheriffs house, and require the delivery of the prisoner; but before the serjeant at arms came with the second message, the sheriffs had been told how heinously the matter was taken, and therefore they now delivered the prisoner to him without any hesitation; but the serjeant's orders went further: he charged the sheriffs to appear personally before the House at eight o'clock the next morning, and bring with them the clerks of the Counter, and such other officers as were concerned in the affray.

The next day the sheriffs, &c. appeared at the bar of the House, where the speaker charged them with the contempt and misdemeanor, and commanded them to answer immediately without allowing them any council; though sir Roger Cholmely, recorder of London, and others of the city council offered to speak in the cause. In the end the sheriffs, and White the prosecutor were committed to the Tower, and the rest to Newgate; there they remained two days, and then on their own petition, and at the humble request of the lord mayor of London and other friends, they were discharged.

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The same authority informs us that the king, being advertized of these proceedings, called before him the lord chancellor and his judges, with the speaker of the House of Commons, and several of the chief members of that House, to whom he declared his opinion to this effect.

“ He first commended their wisdom in
 “ maintaining the privileges of their House,
 “ which he would not have infringed in any
 “ point. He alledged that he, being the
 “ head of the Parliament, and attending in
 “ his own person on the business thereof,
 “ ought in reason to have privilege for him-
 “ self and all his servants in attendance on
 “ him ; so that if Ferrers had been no bur-
 “ gess, but only *his* servant ; in respect of
 “ that, he ought to have privilege, as well
 “ as any other. For I understand, (says he)
 “ that you enjoy the same privilege, not only
 “ for yourselves, but even for your cooks and
 “ horse-keepers. My lord chancellor here
 “ present hath informed me, that when he
 “ was speaker of the lower house, the cook
 “ of the Temple was arrested in London on
 “ an execution upon the statute of staple ;
 “ and, because the said cook served the speaker
 “ in that office, he was taken out of execu-
 “ tion by the privilege of Parliament. Like-
 “ wise the judges have informed us, that we
 “ at no time stand so high in our estate royal
 “ as in the time of Parliament ; when we,
 “ as head, and you as members, are con-
 “ joined and knit together into one body po-
 “ litick :

" litick: so that whatsoever injury is done or
 " offered during that time against the meanest
 " member of the House, is judged as done
 " against our own person, and whole court
 " of Parliament; the prerogative of which
 " court, is so great, that, as our learned in
 " the laws inform us, all acts and processses,
 " coming out of any other inferior courts,
 " must for that time cease, and give place to
 " the highest.

" And as touching the plaintiff in this
 " cause, it was a great presumption in him,
 " knowing our servant to be one of this
 " House, and being warned of it before,
 " still to prosecute this matter out of time;
 " and therefore was well worthy to lose his
 " debt, which I don't wish, and must com-
 " mend your equity that, having lost it by
 " law, you have restored the same against
 " him that was his debtor; and if it be well
 " considered, what an expence it hath been
 " to ourself and you all, as well as loss of
 " time, which should have been employed
 " in affairs of our realm, to sit here near a
 " fortnight, about this one private case; he
 " may think himself better used than his de-
 " sert. This I hope will be a good example
 " to others to learn better manners, and not
 " to attempt any thing against the privilege
 " of this high court of Parliament, but to
 " stay for a proper opportunity. This is my
 " opinion; and if I err, I must refer myself
 " to the judgment of our lord justices here
 " present, and the other learned of the laws."

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UPON WHICH SIR EDWARD MONTACUTE,
LORD CHIEF JUSTICE, VERY GRAVELY
GAVE HIS OPINION, CONFIRMING BY DI-
VERS REASONS ALL THAT THE KING HAD
SAID; WHICH WAS ASSENTED TO BY ALL
THE REST, NO ONE SPEAKING TO THE
CONTRARY.

The next case I shall quote happened in the
reign of JAMES Ist. when the absurd and fla-
vish Doctrines of DIVINE and HEREDITARY
RIGHT and PASSIVE OBEDIENCE and NON-
RESISTANCE, were first broached: broached
by that anointed Pedant, and, after the manner
of courts, adopted by all his courtiers. To a
King and a court, who carried the notions of
kingly RIGHT and kingly POWER to such a
blasphemous height, and set so little value on
the liberties of the people, nothing could be
more obnoxious than the House of Commons;
and accordingly we find many instances of the
affronts offered to that body.

The first day the House of Commons were
sent for to attend that king, in the House of
Lords, SIR HERBERT CROFTS, one of the
members, coming up with others to hear the
king's speech, had the door shut upon him, and
one Bryan Tashe, a yeoman of the guard, vio-
lently repulsed sir Herbert, saying, GOODMAN,
BURGESS YOU COME NOT HERE.

A book was written by the bishop of Bristol,
which contained, what the House thought,
some reflections upon their proceedings.

Sir Thomas Shirley, member for Stayning,
had been committed prisoner to the Fleet, on an

an execution soon after his return, and before the Parliament met.

The king, in short claimed a right of having the returns of elections examined by his chancellor ; and it became then, for the first time, a fashionable opinion, that the privileges of the Commons were only concessions of the crown, granted upon the speakers request, at the meeting of every new Parliament.

Luckily for posterity, the House of Commons were in no disposition to subscribe to such doctrines, to submit to affronts, or to yield up their privileges to the dictates of an undeserving monarch, or the attempts of a profligate court. The yeoman of the guard was obliged to ask pardon upon his knees, at the bar of the House, and to receive a reprimand from the speaker.

The bishop of Bristol, tho' a member of the House of Lords, was obliged to confess his error, and recant the offensive passages in his book.

The warden of the Fleet for taking sir Thomas Shirley, was sent to goal ; and not released, until he had first on his knees, at the bar of the House, confessed his error and asked pardon. The House did more ; not content with making examples of these offenders, they have left to posterity a noble monument of their knowledge of the constitution, and of their virtue and spirit in resisting the attacks, that were made upon it. It is an apology from that House to king JAMES ; in which, the rights and privileges of the Com-

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mons are asserted, in the most manly and spirited terms. The apology is too long to be inserted in this place, I will only transcribe from it some passages, that are apposite to my subject.

“ And contrarywise with all humble and due respect to your Majesty Our Sovereign Lord and Head, against those misinformations we most truly avouch.

“ *First.* That our Privileges and Liberties are our RIGHT and DUE INHERITANCE, no less than our very LANDS and GOODS.

“ *Secondly.* That our Privileges and Liberties cannot be withheld from us, denied, or impaired, but with apparent Wrong to the whole State of the Realm.

“ *Thirdly.* And that our making of request in the entrance of Parliament, to enjoy our Privilege, is an act only of manners, and doth weaken our Right no more than our suing to our King for our lands by petition; which form, though new and more decent, than the old by PRECIPE, yet the Subject's Right is no less new than old.

“ *Fourthly.* We avouch also, that our House is a COURT of RECORD; and so ever esteemed.

“ *Fifthly.* That there is not the highest standing court in this land, that ought to enter into competency, either for dignity or authority, with this high Court of Parliament; which with your Majesty's royal assent gives laws to other courts, but from other courts receives neither laws nor orders.

“ *Sixthly.*

“ *Sixtly, and lastly.* We avouch that the
 “ HOUSE OF COMMONS is the sole proper
 “ Judge of Return of all such Writs, and of
 “ the Election of all such Members as belong
 “ unto it; without which the freedom of elec-
 “ tion were not intire :

“ And that the Chancery, though a stand-
 “ ing court under your Majesty, be to send
 “ out those writs, and to receive the returns,
 “ and to preserve them; yet the same is done
 “ only for the use of the Parliament. Over
 “ which neither the Chancery, nor any other
 “ court, ever had, or ought to have, any man-
 “ ner of Jurisdiction.”

It is impossible to read the history of the next reign, that of *Charles the First*, especially the 14 or 15 first years of it, without conceiving the highest reverence for the memory of those great men, who stood forth at that critical period, in defence of the Constitution. Never was there at any one time in the House of Commons, nor perhaps in any other Assembly, such a number of men, eminent for learning, for good sense, for virtue and courage, as appeared in the House of Commons, during the four first Parliaments of that unhappy Prince: and it is owing to the virtues and abilities of an *Elliot*, a *Cook*, a *Littleton*, a *Grenville*, a *Philips*, and many others recorded in the histories of those times, that the Subjects of Britain are not at this day as much enslaved as those of France and Spain. Upon all points of controversy about the Constitution, much respect and deference will ever be shewn to the

sentiments and opinions; and much more to the determinations of those venerable patriots: and I will therefore, without any apology, give you the sentiments of some of them, upon the breach of privilege in Mr. *Rolls* case, in the 4th year of *Charles* the 1st, extracted from the Parliamentary History.

A complaint was made to the House of Commons by Mr. *Rolls*, a Member of the House, and a merchant, that his goods were seized by the officers of the customs; upon which the officers of the customs were sent for, and examined by the House.

Sir *John Elliot* said,

“ Three things are involved in this complaint:

“ 1st. The Right of the particular gentleman.

“ 2d. The Right of the Subject.

“ 3d. The Right and Privilege of the House.

“ Let the committee consider of the two former; and for the violation of the Liberties of this House, let us not do less than our fathers. Was ever the information of a Member committed to a committee? Let us send for the parties.

“ Mr. *Darcs*, one of the customers, being called in to answer the point of Privilege in

“ taking Mr. *Rolls's* goods, being a Member of this House, said, he took Mr. *Rolls's* goods by virtue of a commission under the Great Seal, and other warrants remaining

“ in

“in the hands of Sir *John Elliot*; that he
 “knew Mr. *Rolls* to be a *Parliament Man*;
 “and that Mr. *Rolls* demanded his Privilege,
 “but he did understand that this Privilege ex-
 “tended only to his *Person*, and not to his
 “*Goods, &c.*

“Sir *John Elliot*. The heartblood of the
 “Common-wealth receiveth life from the Pri-
 “vilege of this House.

“It was resolved by question, that this shall
 “be presently taken into consideration, and
 “being conceived a business of great conse-
 “quence, it was resolved that the House shall
 “be formed into a committee for the freedom
 “of debate.

“Mr. *Littleton* argued. All Privileges are
 “allowed for the benefit of the Common-
 “wealth. The Parliament's Privilege is above
 “any other, and the Parliament *only* can de-
 “cide Privilege of Parliament, and not any
 “other court.

“Sir *Robert Philips*. Thus you see how
 “fast the Prerogative of the King doth in-
 “trench on the Liberty of the Subject, and
 “how hardly it is recovered! He then cited
 “many precedents, wherein the goods of a
 “Member of Parliament were privileged from
 “seizure in the Exchequer. In 12 *Elix.* it
 “was resolved in Parliament, that twenty days
 “before, and twenty days afterwards was the
 “time of Privilege.

“And the committee of the whole house
 “reported, that they took into consideration
 “the violation of the Liberties of the house
 “by

“ by the customers, and at last they resolved
 “ that a Member of the house ought to have
 “ Privilege of Person and Goods.

In these authorities, taken from the proceedings of Parliament, I have confined myself to the more antient ones, omitting purposely those of latter times; not because the modern journals do not furnish any, but because they occur so frequently, and are so well known, that I think it needless to trouble you with them. Scarcely a session passes without furnishing instances of one or both houses of Parliament, exercising the Power of committing for breach of Privilege, and of each house's judging of its own Privileges, without controul. Even in the very last sessions of Parliament, we find by the public papers, that a Peere's in her own right, having been arrested during the sitting of parliament, the house of Lords imprisoned all the parties concerned in bringing the action and executing the writ; and obliged them to pay all costs: And every one knows, that in this case, the Privileges of both houses are equal.

It is then clear, I think, from the constant declarations and proceedings of Parliament, that the house of Commons hath at all times enjoyed and exercised, the sole Right of judging of its own Privileges, and of punishing for breach of Privilege.

I will now shew you, by the most uncontroverted law authorities, and by the concurrent testimonies of the judges, and their declarations from the earliest ages of the English Constitution,

Constitution, down to our own time, that neither the court of Chancery, nor any court in Westminster-hall can, or ever did, presume to discharge a commitment by the house of Commons; and that, the judges in England have always held and declared themselves, incapable of giving judgment upon the Privileges of either house of Parliament, as being, *Extra Spharam activitatis*.

“ *Thomas Thorp* being speaker of the house
“ of Commons, 31 *Hen. VI.* was in time of
“ prorogation Arrested and Imprisoned at the
“ suit of *Richard, Duke of York*, upon a judgment obtained in the Exchequer.

“ The Commons, at the re-assembling of
“ that Parliament, wanting their Speaker, sent
“ up some of their Members to make complaint thereof to the King and Lords, and
“ to desire their Speaker’s release.

“ Upon this the Duke gives the Lords an
“ account of the whole matter.

“ Whereupon (saith the Parliament Roll)
“ the Lords Spiritual and Temporal, not intending to impeach or hurt the Liberties,
“ and Privileges of them that were common
“ for the Commons of this land to this present Parliament, but equally after the course
“ of law to minister justice, and to have knowledge what the law will say in that behalf.

“ Opened and declared to the justices the premises; and asked of them, whether the
“ said *Thomas* should be delivered from prison, by force and virtue of the Privileges in
“ Parliament or not?

“ To

“ To the which question the chief justice,
 “ in the name of all the justices, after *sad*
 “ communication and mature deliberations had
 “ among them, answered and said, that they
 “ ought not to answer to that question.

“ And then follows
 “ The Judges recognition.

“ *First.* For it hath not been used before
 “ time that the Justices should in anywise de-
 “ termine the Privileges of this high Court of
 “ Parliament.

“ *Second.* For it is so high and mighty in
 “ its nature.

“ *Third.* That it may make law.

“ *Fourth.* And the determination and
 “ knowledge of that Privilege belongeth to
 “ the Lords of the Parliament and not to the
 “ Justices.

“ These several cognitions so materially
 “ weighty in themselves, being published and
 “ declared by all the Judges of England, and
 “ that before the Parliament, as a fixed and
 “ standing rule of law, and as a memorial to
 “ all posteritys enrolled among the records of
 “ the said high Court of Parliament, *for ever*
 “ *to endure.*”

And this declaration has, in all succeeding
 times, been of such weight and authority, that
 I will venture to assert, there is not *a single in-*
stance, where the court of Chancery, or any in-
 ferior court, ever presumed to discharge a com-
 mitment of the house of Commons, for breach
 of Privilege. And it will appear, in the two
 following

following instances, where it was attempted, that, by the opinions of the most eminent lawyers, by the opinion of the lord keeper of England and all the judges, and by a solemn judgment of the court of king's bench, none of those courts *can discharge or take cognizance of*, the commitment of the house of commons.

The next case I shall mention, is taken from the debates in Parliament; a case, which has been extremely well remarked upon, in a pamphlet lately published, entitled, *A vindication of the proceedings of the Assembly, &c.* but it is too apposite to be omitted here; especially as it was, I think, the first attempt made, since the above celebrated determination in Thorp's case, of drawing the jurisdiction and judgment of the house of Commons, *ad aliud examen*.

In 1680. A motion was made in the house of Commons, in behalf of judge *Raymond*, that one *Sheridan*, in custody of the serjeant at arms, by order of the House, had applied for his *Habeas Corpus*, which the judge denied, *because he was committed by order of the House*, desiring the opinion of the house. Upon this occasion, sir *William Jones*, a member of the house, and as able a lawyer as any in England, asserted in the House; "That there
" is nothing in the *Habeas Corpus* Act, that
" doth reach, or can be intended to reach,
" to any commitment made by either house
" of Parliament. The preamble and all parts
" of the Act do confine the extent of the Act

“ to cases bailable, and direct such courses
 “ for the execution of the Act as cannot be
 “ understood should relate to any commit-
 “ ment made by either house. A commit-
 “ ment of this house is always in the nature
 “ of a judgment, and the Act is only for cases
 “ bailable, which commitments upon judg-
 “ ment are not.”

Here, then, is a judge, *refusing even to grant* a writ of habeas Corpus, for a commitment of the house of Commons, and this not above two years after the passing of the habeas Corpus Act; and, sir William Jones declaring to the house that, that Act was not intended, nor could not be understood to extend, to commitments by either house of Parliament. The opinions of these eminent lawyers are of great authority, from the characters and reputation of the men; but they receive much additional weight from a consideration of the time, in which they were given: for the law presumes, that the intention of an Act of Parliament is best known from those, who lived at or near the time, in which such Act passed. And you will accordingly find this authority, supported by the opinion of the lord-keeper, and all the judges in England, in the next case I am going to mention; that is, the celebrated case of the *Aylesbury* men.

As this was the first time, that the jurisdiction and the power of commitment of the house of Commons ever was made a question of in Westminster Hall; as the question in
 the

the course of it, brought on a contest between the house of Lords and the Commons; as it was discussed, both in Parliament and in Westminster Hall, by the ablest lawyers and the greatest men in England; and, as there was a solemn judgment upon it in the King's Bench, which is now a record and a standing rule, in all cases of the same kind; I will, with your leave, insert the case.

“ A complaint was made by the honourable
 “ house of Commons, that, since their last re-
 “ solutions in the cause of Ashby and White,
 “ several actions had been brought by *J. Paty*,
 “ *J. Oviat*, *J. Peyton*, *H. Basse* and *D. Horne*,
 “ and prosecuted by *R. Mead* against the con-
 “ stables of Aylesbury, in breach of the privi-
 “ leges of that honourable house: whereupon
 “ they were pleased to order the matter of the
 “ said complaint to be heard at the bar of
 “ their house, and ordered the persons con-
 “ cerned to attend there, and appointed a day
 “ accordingly.

“ The parties appeared (all but Mead)
 “ when the witnesses were examined, and
 “ they severally called to the bar of the
 “ house, and then withdrew, and upon full
 “ hearing, the house were pleased to order
 “ their speaker to issue out warrants, for
 “ committing them (being taken into custo-
 “ dy) to her Majesty's goal of Newgate.

“ In the Michaelmas vacation 1704 they
 “ prayed an *Habeas Corpus* upon the statute
 “ 31. *Cba.* 2d; upon the return of which all
 “ the judges met, and advised whether they
 “ were

" were bailable by that statute? who were
 " unanimously of opinion, THAT THEY
 " WERE NOT; and accordingly they were re-
 " manded. And in Hilary term following,
 " they moved the court of queen's bench
 " for an habeas corpus, by the common law,
 " which was granted; upon the returns
 " whereof the judges of the queen's bench
 " desired the assistance of the rest of the
 " judges whether they might be discharged?
 " who were all of opinion, except the *Lord*
 " *Chief Justice Holt*, that they ought to be
 " remanded."

But, as it was argued in the queen's bench
 by counsel, and afterwards the judges deliver-
 ed their opinions *SERLATIM*, I will, in order
 to shew the matter more clearly, extract such
 parts of the arguments of those judges, upon
 whose opinions the court founded its deter-
 mination, as are applicable to the case in ques-
 tion here. I make no extracts from the ar-
 guments of lord chief justice Holt, as his
 opinion in that case, is *not law*, having been
 over-ruled by his brethren, upon a consulta-
 tion with all the judges of England.

" Mr justice Gould, and Mr. justice Powis
 " said, they would chiefly insist upon *Legem*
 " *et Consuetudinem Parliamenti*; but they
 " would first maintain the form of the war-
 " rant.

" Objection. That this is a commitment
 " by the speaker only; for that the warrant
 " does not run, ordered by the knights
 " citizens and burgeses in Parliament assem-

" bled,

bled, according to the precedent in my
“ lord Shaftsbury’s case, 1. Mod. 144.

“ Answered by the Judges.

“ That it is good, being according to their
“ form; and that it must be presumed the
“ speaker’s warrant was by order of the
“ house.

“ Objection. This commitment is for
“ bringing their action at law, and for taking
“ the due course of law.

“ Answer. What is privilege, but dispen-
“ sing with the law? the generality of breach-
“ es of privilege are for taking the due course
“ of law. If you go to scanning the words
“ of a commitment, who knows not that
“ most commitments, that would hold for
“ such, do express the cause but shortly, and
“ but just give a hint? and the law does pre-
“ sume that the higher courts do understand
“ what they do, and therefore are not tied up
“ to such strictness as inferior courts.

“ Objection. *Shall* the house of Commons
“ take a despotick power to regulate how ac-
“ tions shall be brought, and what actions
“ shall not be brought?

“ Answer. *Can* we suppose that high
“ court would stop the progress of the com-
“ mon law of England? ’tis highly disho-
“ nourable to have such thoughts; and no
“ body dares think so, or will presume to
“ say so; and people would laugh at one that
“ should say, the house of Commons will
“ take away the liberties of the people.

“ There

“ There is no better way to determine the
 “ jurisdiction of either house of Parliament,
 “ than by usage and custom ; as the bounds
 “ of parishes are. That there is no prece-
 “ dent or case, not so much as an opinion,
 “ yet cited, that the courts of Westminster-
 “ hall have a power to judge of the autho-
 “ rity of the house of Commons ; or that
 “ the orders and commitments of the house
 “ of Commons, can be discharged in West-
 “ minster hall ; nor were they ever before
 “ attempted to be discharged here upon such
 “ a commitment by the house of Commons ;
 “ which is a good argument, according to
 “ my lord Coke’s rule, that we want power
 “ to do it. It would be impossible for us to
 “ judge of the privileges of the house of
 “ Commons ; for there are no printed books
 “ of their privileges, nor is there any means,
 “ by which we can attain to the knowledge
 “ of them ; but their customs and privileges
 “ are kept, as Arcanas, in the rolls and re-
 “ cords of their own house ; and their pri-
 “ vileges depend altogether upon precedents
 “ in Parliament. They do judge it as a con-
 “ tempt and breach of their privileges ; and
 “ who shall say nay ? they are proper judges
 “ of the matter ; and upon the return it ap-
 “ pearing they were committed by the house
 “ of Commons, our jurisdiction ceases. So
 “ far Gould and Powis.

Mr. Justice POWELL, said,

“ That the Commons have a judicature,
 “ not

“ not by the common law ; but do judge of
 “ breaches of privilege and contempts to their
 “ house, *secundum legem et consuetudinem*
 “ *Parliamenti* : 4 Inst. 23. and by this law
 “ these persons are committed, and now are
 “ brought to be discharged by the common
 “ law. The resolutions of the Commons
 “ upon the breach of privileges, is a judg-
 “ ment, and the commitment an execution
 “ of it, which cannot be controuled, for this
 “ would be to draw it *ad aliud examen*, and
 “ then the Commons would not be supreme
 “ judges of their own privileges.

“ That this court may keep other inferior
 “ courts within their jurisdiction, but not
 “ the house of Commons : for no prohibition
 “ was ever granted to that court, tho’ they
 “ exceed jurisdiction. So if the house of
 “ Lords do exceed, or take cognizance of
 “ matters in the first instance ; no prohibition
 “ would lie : for no inferior court can prohi-
 “ bit a superior ; and no prohibition was
 “ moved here ; nor could we have granted it ;
 “ for the house of Commons is superior to
 “ all ordinary courts of law.

“ In the 4th Inst 50, it doth not belong
 “ to the judges to judge of any law, privi-
 “ leges, or customs of Parliament : for the
 “ laws, customs, and privileges of Parlia-
 “ ment are better to be learned out of the
 “ rolls of Parliament and other records, and
 “ by precedents and continual experience,
 “ than can be expressed by any one man’s
 “ pen.

“ In

“ In 4 Inst. every court of justice hath laws
 “ and customs for its direction ; some by the
 “ common-law, some by the civil and can-
 “ non-law, some by particular laws and cus-
 “ toms : so the high court of Parliament
 “ *Suis propriis legibus, et consuetudinibus subsi-*
 “ *tit* : that judges ought not to give any opi-
 “ nion of a matter of Parliament ; because
 “ it is not to be decided by the common
 “ laws, but *secundum legem et consuetudi-*
 “ *nem Parliamenti* ; and Coke says, *Ista lex*
 “ *ab omnibus est querenda, a multis ignorata,*
 “ *a paucis cognita.* Now who shall judge
 “ this no breach of privilege ; when the house
 “ of Commons, who are the proper judges
 “ of their own privileges, have adjudged it
 “ to be a breach of their privileges ?

“ The judgment of the court, as it was
 “ made up, upon the roll by the directions
 “ of my lord chief justice Holt, was *Quia*
 “ *cognitio causæ captionis et detentionis predictæ*
 “ *Non pertinet ad curiam dominæ reginæ, ideo*
 “ *remittitur.*” Which is as strong and con-
 clusive against the jurisdiction of the courts
 in Westminster-hall, in cases of commitment
 by the house of Commons for breach of pri-
 vilege, as words can make it. It has so much
 the force of a law with the judges in West-
 minster-hall, and is of such authority, that,
 in the case of the honorable Alexander Mur-
 ray, committed by order of the house of Com-
 mons about 12 or fourteen years ago, (the
 only case of an habeas corpus asked for, on
 a commitment of the house of Commons,

since

since the determination in that of the Aylesbury men) the cause of commitment return'd by the goaler was only an order of the house of Commons, without any crime alledged; and the Judges said, *They could not question the authority of that House, or demand the cause of their commitment, or judge the same*; and therefore they refused to discharge the prisoner, and so remanded him.

Now, if we are to look for precedents from the mother country, to support our Chancellor's conduct, in the case in question here; you see, that all the precedents from thence are against him. Yet is it most surprising to hear, with what confidence those, who are for giving up our Privileges, assert the justice and legality of the Chancellor's determination, without a single authority to support their assertion. But, nothing has surprized me more, than to hear grave men, and some who ought to know better, leaning upon the single opinion of Lord Chief Justice Holt, as on a sufficient authority; although they must know it is none, that it was over-ruled, and that the very reverse of his opinion was declared to be the law. To such shifts are men reduced, who have a bad cause to defend! But what will become of these antiprivilegians, when even this twig, which they have laid hold of, and are forced to lean upon, is taken from them? If it can be shewn, that even Lord Chief Justice Holt's opinion, (which they consider of higher authority than that of all other judges, higher even than an adjudged case) is, in that part of the Aylesbu-

ry mens case, which mostly resembles ours, diametrically against them, and against our Chancellor's determination; will they be modest enough to give up the argument?

That it is so, will appear upon a review of that case. Every body knows, that the writ of Habeas Corpus is of two kinds. There is a writ of Habeas Corpus which the subject is entitled to by common law, and which is grantable only in Term time by the court; and, there is a writ of Habeas Corpus by the statute of 31 Car. II. which the Chancellor or any of the Judges is at all times to grant upon application. The latter is the only Habeas Corpus that a Chancellor can grant. Now the first application for an Habeas Corpus, in the above case of the Aylesbury men, was out of Term, *To the Lord Keeper of England*, upon the statute of 31 Car. II. This is therefore the application, which mostly resembles that which was made to the Chancellor here by Cooke and M'Neil; and it does, indeed, most exactly resemble it. But the Lord Keeper of England, upon the return of the writ, thought the matter of such consequence, that he did not chuse to rely upon his own judgment, nor did he chuse to depend upon any help, which he could have from the arguments of the prisoners counsel (considering these, perhaps, as men whose duty it was to mislead him) but, he called to his assistance all the Judges of England, my Lord Holt one of them. All the Judges met, and after the most mature deliberation among themselves
upon

upon the question, whether the prisoners were bailable by that statute? declared it unanimously as their opinion, THAT THEY WERE NOT, and they were accordingly remanded.

I have before shewn it, to have been the opinion of Judge Raymond and Sir William Jones, very soon after the passing the Habeas Corpus act, that, that act did not reach the commitments by either house of Parliament. Here then, is that opinion established into law, by a solemn determination of the Lord Keeper and all the Judges of England in 1704.

By what authority then, or upon what precedents could the Chancellor, on an Habeas Corpus by the statute of 31 Car. II. discharge the commitment of the Assembly? He could find no precedents at home, he could find none here; for no Chancellor or Judge before him in this island, ever presumed to question the commitments of the Assembly, and much less to discharge them. Will it be asserted, that the Assembly of Jamaica have not the Privileges of the house of Commons? It is asserted; and the advocates for this doctrine go further, and say, that we have no Privilege, but what the King is pleased to allow us. I will endeavour to prove, that, if the Assembly have not the Privileges of the house of Commons, they have no Privileges; for that, *the King cannot by law grant them Privilege*. I will endeavour likewise to shew that, if the Assembly do not hold their Privileges upon the same independent terms with the house of Commons, the people of this colony have no defence against

the assaults of arbitrary power, no security for their lives, their liberties, or their properties.

It is asserted, by those who argue against Privilege, that the King of Great Britain, as being stiled *Lord* of Jamaica and the colonies, may give to his subjects in those colonies, what measure of Liberty, and what form of Government he pleases; an assertion most absurd, false, and wicked: These Colonies are not, like his Majesty's German dominions, the *Property* of our Sovereign. God forbid, they should ever become the Property of any King or potentate upon earth! They are part of the British empire, over the whole of which his Majesty presides as the head, and so stiled and declared in many British acts of Parliament. Their inhabitants are all British subjects, entitled to the laws of England, and to its Constitution, as their inheritance; possessing their Rights and Privileges, by as free and certain a tenure, as that, by which they hold their lands, as that, by which the King holds his crown. Never was it pretended, till now, that a British subject became a slave, or forfeited any of the Rights and Privileges of an Englishman, by settling in a British colony: Even in the reign of Charles II. when arbitrary power, under the shelter of unlimited Prerogative, was making large strides over the land, there was no difference made, between the Rights and condition of subjects in the colonies, and those in England.

There

* There is a remarkable case in that reign, which sets the doctrine in a clear light. It was an action brought against a governor of Barbadoes, for some arbitrary proceedings against a gentleman there: the governor's proceedings could not, it seems, be justified by law, and he therefore pleaded his *Instructions*. After passing through the lower courts, the cause was brought by writ of error into the house of Lords; and in the pleadings of the lawyers, the Constitution of the colonies and the Rights of the colonists, are fully and finely set forth. It was argued, that the colonies could not be considered as conquered countries; since they were part of the English empire, settled entirely by Englishmen, who neither did nor could, forfeit any Right by settling in a colony: that, they had a right to the laws of England: that, the judges there were obliged to determine according to law: that *Instructions to a governor* could only be understood, as directions in matters of state and government; and could not be admitted in judicial determinations, without *Oppression and Injustice* to the subject. And this doctrine was so fully admitted, that it was not denied, even by the lawyers on the other side.

As a further proof, that this was the general sense of the nation in that reign, it is notorious, that one of the articles of impeachment, against the great Lord Chancellor Clarendon was, *That he had introduced an arbitrary*

* Cases in Parliament. Sir Richard Dutton, Plaintiff, versus R. Howell, &c.

trary Government into his Majesty's Plantations: And it is one of the crimes for which that great minister and favourite was banished, by act of parliament; and that indeed, which, in the vindication he has left of himself, he has said least to palliate or justify.

But our Rights will best be understood, by a review of the Constitution of this colony; of its beginning and progress to this time. Every body knows, that Jamaica was conquered from the Spaniards by a fleet and army sent out by Cromwell, under the Command of Admiral Penn and General Venables. After the reduction of the island, the Spaniards either quitted it, or were all driven out; so that it remained inhabited only by the soldiers, who had conquered it; and it was governed of course by military laws, until some time after the restoration of Charles II. when the measure of making it an English settlement, by sending out a colony, was adopted. The King, in order to induce his subjects to transport themselves and families hither, and become settlers, put out a proclamation, offering them many encouragements, and particularly, *That all children of any of our natural born subjects of England, to be born in Jamaica, shall from their respective births be reputed to be, and shall be, free denizens of England; and shall have the same Privileges to all intents and purposes, as our free born subjects of England.*

Nor could any thing less than this have been sufficient, to induce the free subjects of England to quit their country and friends, and settle

settle themselves in a remote and inhospitable climate. In pursuance of the royal promise in this proclamation, and as soon as the colony was numerous and considerable enough, to make it an object for civil government, a civil government was instituted, the same which has subsisted in it ever since. The King could not give any other form of civil government or laws, than those of England; and accordingly we shall see, that the form of government here resembles that of England, as nearly as the condition of a dependent colony can be brought to resemble, that of its mother country, which is a great and independent empire.

Here, as in England, we have *Coroners*, *Constables*, and *Justices of the Peace*. We have a court of a *Common Pleas*, court of *Exchequer*, and a court of *King's Bench*: we have a court of *Chancery*, and we have a court of *Ordinary* for the probate of wills and granting administrations. The coroner is elected by the people, the constables are appointed by the justices of the peace, the justices of the peace and the judges of all the courts act by authority of the King's commission under the broad seal. The different orders of judicature here, then, are exactly like those in England, subsisting by the same authority, and instituted for the same purposes. There is the same resemblance preserved, in the forms of our legislature. It is composed of three estates, of which the governor (as representing the King) is head. Having no order of nobility here, the place of
a house

a house of Peers is supplied by a council of twelve gentlemen, appointed by the King, which, in the system of our legislature, forms the upper house. The lower house is composed, as in Britain, of the representatives of the people, elected by the freeholders ; and these three bodies form a legislature which exercises the highest acts of legislation, for it raises money, and its laws extend to the life, liberty, and property of the subject, several having suffered death upon laws passed by our legislature, even before they have received the Royal assent. These three estates ought by the constitution, to be perfectly free in their deliberations, and perfectly independent of each other. In their legislative capacities they are entitled to, and have ever enjoyed, the same Privileges with their respective bodies in the mother country, which they are intended to represent ; and they do preserve, I believe, as nearly as they can, the same forms. But the two first branches cannot, from the nature of things, be made to resemble those they are supposed to stand for, as nearly as the Assembly does. For example ; the King appears *personally* and in full Majesty at the head of his Parliament ; his consent gives full life and duration to such bills as are offered to him by his Parliament ; and he has in himself full power to approve or reject them. The Governor, though he represents the King in our legislature, yet acts by a delegated power, and exercises only such parts of the prerogative, as the King is pleased to intrust him with. Thus
too,

too, altho his consent is necessary here to the enacting laws, and his consent does give them full force while they last, yet, it can give them but a temporary existence, until the king's pleasure is known, it is from his majesty's consent that they receive their full life and duration. Our Governor is also bound to follow instructions, in his legislative capacity; and in this acts, indeed, but ministerially, and is not therefore, nor can, from the nature of things be independant.

The members of the *Council*, or upper house, do not hold their places as an inheritance, nor yet for life, but at pleasure, liable to be displaced upon any occasion by a Governor; and they have often been displaced upon very slight pretences. This body, then, is but a very imperfect representation of a house of Peers; and, because of the uncertain tenure, by which they hold their places, wants much of that independance, which is proper to every branch of the legislature in a free country. They want much too of the power of the upper house: but they have, perhaps, as great a share of it, as it would be safe to trust to so flux and dependant a body. In their legislative capacity however, they have a constitutional right to the privileges of Parliament; since in our constitution, their consent is necessary to the enacting of laws.

The *Assembly*, or lower-house, has an exact resemblance of that part of the British constitution, which it stands for here: It is, indeed, an epitome of the house of Commons.

Called by the same authority, deriving its power from the same source, instituted for the same ends, and governed by the same forms; it will be difficult, I think, to find a reason, why it should not have the same privileges and the same powers, the same superiority over the courts of justice, and the same rank in the system of our little community, as the house of Commons has in that of Britain; especially since all the courts of justice here are governed by the same laws, enjoy the same privileges, exercise the same powers, and hold the same rank with those, they respectively represent. Thus for example. The coroner, the justice of the peace, the judges of the court of King's Bench, Common Pleas and Exchequer, the chancellor and the ordinary, have all the power of committing for contempt. It is a power that every court has, as essentially necessary to its existence; for no court could subsist without it: Thus, the grand court can, and frequently does, privilege a juror from arrests; and will even discharge his horse, if taken in execution during his attendance upon the court; and the same court does frequently grant protections to men, during the sitting of the court. The court of Chancery doth often grant protections to the suitors of that court, I believe, for an indefinite time: and, if any officer were to execute a writ upon a person so protected, the court, which granted the protection, would most certainly commit the offender. Now if a person, so committed by the court of Chan-

Blod s. 3 cery,

cery, was to apply to the grand court for an Habeas Corpus; and the court, upon the return of the Writ, were to discharge the prisoner, giving for reason, that they could find, neither in any Act of Parliament nor Act of Assembly, any thing to justify the commitment, and so record their judgment and reason: The court of Chancery would, I believe, consider this, as a violent attack upon its jurisdiction and authority, and resent it as such: and yet, I believe, the power of commitment by the Assembly for breach of privilege, is as well founded, in law at least, as the chancellor's; and, I will venture to say, it is founded upon as many Acts of Parliament and Acts of Assembly. But if the grand court should go further; and, as a reason say, the commitment was not warranted by any *instruction from the king*: the court of Chancery would, I believe, in this case also go further; the judges would be dismissed; there would, I make no doubt, be an information brought against them; and they would be taught, by the sentence of more upright judges, how criminal it is for any judge to suffer himself to be governed in his judicial determinations, by *instructions*, or by any other rule than the laws of the land.

It appears then, that the inferior courts do enjoy and exercise, without interruption, certain privileges; some of them, that of protecting men from writs of arrest or execution; and all of them, that of committing for contempt: Let us consider, by what tenure they

hold these privileges, and from whence they are derived. Are they derived from the king, as concessions from the crown? by no means. The king has no power to grant such privileges; he has no prerogative to protect any man from arrests, nor to commit any man to prison by his command; and this I will endeavour to shew.

Every man has a right by the constitution, to prosecute his debtor by an action at law; to sue out his writ of arrest, or execution, and take the body of his debtor, unless he pays the money. All privilege from arrest is therefore a dispensing with the law; and the generality of breaches of privilege are for taking the due course of the law; and so it was said by the judges, in the case of the Aylebury men. Before the revolution the kings of the Stuart race, did often assert a right of dispensing with the law, and did attempt to do so: but this ill-founded claim was continually denied, and their arbitrary exertions of such a power, constantly and strictly opposed by Parliament. The frequent exertions of this and some other unconstitutional powers, were the cause of all the troubles of that obstinate, ill-fated family; and at last brought on their ruin, in the expulsion of James the II. at the revolution. By the very act, which excluded the male line of that family, and which, transferring the crown into another branch, settled it upon the prince and princess of Orange, it is declared that, "Whereas the late king James the II. by the assistance of
 noqU " divers

“divers evil councillors, judges, and minis-
 “ters employed by him, did endeavour to
 “subvert and extirpate the protestant religi-
 “on and the laws and liberties of this king-
 “dom, by assuming and exercising a power
 “of dispensing with, and suspending laws,
 “and the execution of laws, without the
 “consent of Parliament, &c. The lords spi-
 “ritual and temporal, and Commons, pur-
 “suant to their elections, being now assem-
 “bled in a full and free representative of this
 “Nation, do in the first place, (as their an-
 “cestors in the like case have usually done)
 “for the vindicating and asserting their anti-
 “ent rights and liberties declare;

First, “That the pretended power of sus-
 “pending laws, or execution of laws by re-
 “gal authority without consent of Parliament
 “is illegal.

“*Secondly*, that the pretended power of dis-
 “pensing with laws, or execution of laws
 “by regal authority, as it hath been assumed
 “and exercised of late is illegal.

In the 9th article it is said,

Ninth, “That the freedom of speech and
 “debates, or proceedings in Parliament,
 “ought not to be impeached or questioned
 “in any court out of Parliament.

“And in another place of the same act it is
 “said,

“And they do claim, demand, and insist
 “upon, all and singular the premises, as
 “their undoubted right and liberties,

Upon

Upon which I shall only observe, that this is not a new law, creating any new privilege in the people, or clipping the prerogative; but a solemn declaration and assertion of the people's rights, and what the law and constitution of England had ever been; and it cannot now be pretended, that by the constitution, as it was settled and declared at that glorious period, the revolution in 1688, the king hath any prerogative to dispense with laws. It follows, then, that privilege from arrest being a dispensing with the law, the king has no prerogative to grant privilege. The truth is, the king neither does, nor can grant privilege, any more than he can make law; but the constitution, which allows the subject a right in law of bringing an action against his debtor, and of arresting or taking his body, does in certain cases, and in favour of certain offices and services, dispense with this law. Hence, then, is derived the privilege, that has ever been enjoyed by the king's servants, and the two houses of Parliament, and hence, those privileges and powers of granting protections, which are exercised by the courts of justice.

The king, by his prerogative, has the sole right of convening a Parliament: but that Parliament being met, their privileges are their own. By the law of the land, when the king calls any person to his service, he cannot give him any privilege; he gives him only an office, in which, by law, he is entitled to privilege. The king by his prerogative,

tive, may appoint as many courts as he pleases ; but they must be courts of law and trials by jury, that being the English constitution ; for, the king cannot institute a new jurisdiction. The court of Chancery in England, exists only by custom, as every court of Conscience in England does, and I believe it will be found, that no court of Chancery ever was erected here, by law or otherwise ; but the king, in his commission to the Governor, mentioned him as chancellor, and the Island, seeing the necessity of such a court, submitted to it. The court of ordinary is defective in its power, for it cannot enforce its orders. They are enforced in England, by ecclesiastical censures, which, I believe, the bishops would not consent to trust a Governor with, and the king has not power to grant. Indeed the whole power of the Governor, as ordinary, seems to flow from a law of this Island ; how otherwise he derives his power, whether by patent from the crown, I know not, but this demonstrates, how very cautious the crown was of exerting or extending its prerogatives, (in settling our constitution) even in those early days.

The judges commissions (as all commissions civil and military do) flow from the king : but he can neither amplify nor abridge their power or authority ; nor prescribe to them their forms of proceeding, or their modes of administering justice. These are all chalked out to them by the law, and the antient usage of their respective courts, within the limits of which

which they are bound to move : and it would be criminal in a judge to suffer himself to be governed by *instructions* in judicial determinations, so criminal, that many judges have been censured and punished, and some in Richard the II^d's time, hanged for it.

As the king cannot confer privileges ; so he has no prerogative of creating any new power, for imprisoning the subject, or abridging him of his liberty. A commitment, per *Mandatum domini regis*, is not good and must be discharged ; because the king does not act in person, but hath committed all his power judicial, some to one court and some to another ; so that no body is to be committed to Gaol by the king's special command : and *Hussey*, chief justice, in 1 Henry VII. fol. 4. saith, that sir John Markham told Edward the IV. he could not commit a man ; because, if the king did wrong, the party could not have his action.

It is evident, then, that the power of commitment exercised by the two houses of Parliament, by the courts of justice, by the judges, magistrates, and all the officers concerned in the administration of justice, cannot be measured out to them by the king, in such portions as he thinks fit : It is a power with which they are invested by law, and is incident to their respective courts and offices.

In order to shew a nearer resemblance of our constitution here, to that of our mother country, and to bring the matter home to our subject, we will (if you please) review and

com-

compare the power of commitment, which is exercised by the different orders and powers of Government here, and in England. Here then, as in England, it has been already said, that every court of justice has a power of committing for contempt, a power, which seems to be inseparably annexed to every court, as essential to the support of its lawful authority. Here too, as in England, the commitments of the inferior courts may be examined, and discharged if irregular, by the court of king's bench, upon an *Habeas Corpus*, by the common law; and by the chancellor, or any of the judges, by the statute of 31 Charles II. But the commitments of the grand court, or court of Chancery, cannot be questioned, controuled or discharged, by any inferior jurisdiction: the inconsistency and absurdity of an inferior court's controuling a superior one, would not be endured in any other country, I believe, but this.

The law of England, ever jealous and careful of the liberty, as well as the life and property of the subject, supposing that a jurisdiction in these courts without some check or controul, or some power to watch over them, might be dangerous, and leave them at liberty to overflow their bounds, and in the end overwhelm the constitution, has wisely provided against this danger, by subjecting all their proceedings to the inspection of Parliament: And it is for this reason, the court of Parliament and each house of Parliament

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enjoys, in the order of the British government, a rank superior to every court of justice and a power over them: and, every court in the kingdom is amenable, and answerable for their conduct, to both or either of the houses of Parliament. It is for the security of the people therefore, in their lives, liberties and properties, that the two houses of Parliament have power over the courts of justice: and it is from motives of wisdom and public good, that the commitments of either house, (as I have shewn) are not to be questioned by any other jurisdiction. The house of Commons is the grand inquest of the nation; it is therefore, in a more especial manner, the duty of that house, to enquire into all abuses of power, and all public grievances, and to get them redressed.

It is indeed, from their representatives chiefly, that the people can hope for, or expect a candid enquiry into and thorough redress of grievances. The history of England gives us many instances of the corruption of judges and of their readiness, either from motives of corruption, or from a servile and criminal obedience to the dictates of a court, to pervert those laws to the destruction of liberty and property, which were intended for a nobler and better purpose, the security of both. But history also shews us the salutary effects of the superior power of the house of Commons; and that it has at all times stood in the gap against oppression. Many are the instances, which occur in the English history,
of

of judges brought to justice and to condign punishment, by the power of that house: some judges have been hanged, some banished, and some have been degraded, fined and imprisoned. In James the 1st's time, the great lord chancellor, Bacon, one of the greatest and wisest men the world ever saw, was yet so corrupt in the administration of justice, that he was impeached by the commons, and upon conviction, sentenced to be degraded from his dignity, fined, imprisoned and stript of the office he had abused. And so lately as the reign of George the 1st. the lord chancellor Macclesfield was, for the same crime, rendered incapable of his office, fined and imprisoned. Every man of candour, who has any knowledge of the history and of the laws and constitution of England, must own, that the power, the authority, and superiority over ministers and courts of justice, which the constitution gives to the house of commons, has been, and ever must be, the chief bulwark of the constitution; and, that without it, the life, liberty, and property of the subject would have no security against the oppression of ministers, and the corruption of judges.

This is the law and the constitution of England; the birthright and inheritance of every Briton, and the only form of government to which he can be made subject, without his consent. These are the rights, which our fathers brought with them to this Island: Rights, which no earthly power can divest

ious of, without our consent, whilst Great Britain continues a free and independant Kingdom, and her children retain any degree of love for the laws of England and for civil liberty.

To say, that our rights and possessions are secured to us by the laws of England, and yet at the same time, that we have no title to those powers and privileges, *without which they cannot* subsist, is downright impudent nonsense; it is mocking us with the sound of Liberty and Property, and robbing us of the substance.

If we are freemen, and not slaves, our liberties are as much our inheritance, as our lands. If our lives, liberties, and properties are not our inheritance, secured to us by the same laws, determined by the same jurisdictions, and fenced in and defended by the same constitution, as the wisdom of our ancestors found it necessary to establish, for the preservation of these blessings in our mother country; then, are the subjects of the Colonies, *not* freemen but slaves; not the free subjects, but the outcasts of Britain; possessing these invaluable blessings, only as tenants at will, the most uncertain and wretched of all tenures; and liable to be dispossessed, by the hand of power.

Lord chief justice Coke, (that oracle of law) being a member of the house of Commons, in the reign of Charles the 1st. said, in a conference with the Lords: "For a free man to be a tenant *at will* of his liberty; I will

“ will never agree to it.” It is a tenure not
 to be found in all Littleton. And there is cer-
 tainly no other distinction between freedom
 and slavery, but that a freeman has his life,
 his liberty, and his property, secured to him
 by known laws, to which he has given his
 consent; and that he cannot be divested of
 any right, but by a judgment of a lawful
 court, and for breach of some law of the
 land : Whereas a slave holds every thing at the
 pleasure of his master, and has no law, but the
 will of his tyrant. Can there be a more fla-
 vish or infamous position, than, that we have
 no constitution in the Colonies, but what the
 king is pleased to give us? And is it possible,
 that, among a people who stile themselves
 Britons, men should be suffered or listened to
 with any patience, who have the effrontery to
 own maxims and to propagate doctrines, so
 subversive of every thing, that should be dear
 to a Briton ! Were it possible to repress an ho-
 nest indignation at the degeneracy of these
 men ; It would be pleasant to consider the in-
 consistencies and contradictions they are led into
 in their arguments and endeavours to prove us
 slaves. For example. They will tell you grave-
 ly, that the subjects in the Colonies are free-
 men ; that they hold their lands, their lives,
 and liberties, under the security of the laws of
 England ; that they have a right to justice ad-
 ministered in the same forms, and by the same
 rules, as in England ; and, that their courts,
 where justice is administered, derive their ex-
 istence from the same source, have the same
 powers,

powers, and stand in the same degree of subordination to one another, as the courts of justice do in England. But they assert, that the representative body of the people, a court, by the laws of England, superior in rank, in power, and importance, to all those courts, is, in this Colony (by a strange inversion of the constitution) placed below them: that is in plain English: " You are freemen, entitled to all the
 " rights and privileges of Englishmen, but
 " your constitution wants the only fence, which
 " in your mother country secures to the subject
 " those invaluable blessings." Can there, in the name of God, any honest reason be given, why the order of things in this colony ought to be thus inverted? or why the representatives of the people should be so degraded in our constitution, from the rank which they hold in that of our mother country?

I am not so absurd as to say, or imagine, that the Assembly of this little Colony is any ways equal in dignity or extent of power to the house of Commons. The house of Commons represent the people of a mighty kingdom, of which this Colony is but a part: The house of Commons have for their object the whole British Empire, its interests and connexions with all the world. Our Assembly acts in a much narrower field; its operations confined and circumscribed within the limits of this little community, extend not to any other part of the king's dominions; and its power, like that of all other bodies thro' the British Empire, is subordinate to that of a British Legislature, which

which is and must, in the nature of things, be supreme over all the British dominions. I contend not for an equality of the Colonies with the mother country; they are, and in the nature of things must be dependant upon it. But I contend for a right in the subjects of this and every Colony, to the laws of England; that this Colony has a constitution, and a form of Government, resembling as nearly, perhaps as possible, that of England: That it has enjoyed this constitution ever since civil Government was first established here; and that no form of Government, repugnant to the English constitution, can be imposed upon us against our consent, without actually degrading us from the rank of Englishmen, and reducing us to a condition of slavery. Upon this foundation, then, I do affirm, that the house of Assembly of Jamaica does, and must hold the same rank in our little system, as the house of Commons does, in that of our mother country; that the court of Chancery, and all the courts of justice stand in the same degree of subordination and inferiority to it, as those courts in England do to the house of Commons; that it is necessary for the public security, that this court should have a power to question the proceedings, repress the exorbitancies and restrain the excesses of all other courts; and that this power cannot be preserved, if the court of Chancery or any inferior court is allowed to examine or discharge the commitments, or controul the jurisdiction of the Assembly, in cases of privilege.

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The wisdom and experience of our ancestors in England taught them, that it was necessary for the security of life, liberty, and property, that there should be a power somewhere in the constitution, to controul the courts of justice; and they did most wisely place the power of controuling them, where alone it could be securely placed, in the Parliament, in each house of Parliament, in *the people by their representatives*. What reason or justice is there in denying the people's representatives here, the same salutary power of controul? Is there less danger to be apprehended from the oppressions and injustice of those courts here, than in England? Is the Chancellor, are the judges here likely to be more learned, more free, more independent, more virtuous, and less corrupt, than the lord high chancellor and the judges in England? Or, are the people less to be trusted with righting themselves, than those of England? I think none of these things will be asserted; I am sure they cannot be maintained. I think, the danger that would result to this country, from the want of such a power in the Assembly, still greater, undeniably greater than it would be in England, from the weakness of our condition, which, in many instances, admits not of a constitution, so perfect and so capable of giving public security.

Let me explain myself. It has been shewn before, that our Legislature here wants, in its two first branches (from the dependent condition of the Governor and council) a good deal of that freedom, which is necessary to the Legif-

Legislature of a free country; and that on this account, our constitution is defective in point of Legislature; those two branches not preserving by any means, so near a resemblance to the parts of a British Legislature, which they stand for here, as the Assembly does. This is a defect in our constitution, which cannot, from the nature of things, be entirely remedied; for we can never expect the happiness of the King's personal presence amongst us, nor have we any class of men, distinguished from the people by inherent honours. But there are defects, *in point of judicature*, more important than these, and more dangerous to liberty; and which may and therefore, I hope, will one time or other be remedied. In England judges hold their places, *Quam diu se bene gesserint*: here they hold them upon the slippery and uncertain tenure of, *durante bene placito*; and they are put in and displaced at a Governor's pleasure. In England, the king cannot exercise a judicial office himself; for, tho' justice and judgment flow from him, yet he dispenses them by his ministers, and has committed all his judicial power to different courts. And it is highly necessary for his people's safety, that he should do so: for (as Montesquieu, who has investigated the nature of government, and seems to be perfectly master of the subject, says upon the constitution of England) there can be no liberty, where the judicature is not separated from the legislative and executive powers. his words are, "Il n'y a point encore de liberté, si la puissance de juger n'est pas séparée de la

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“ puissance législative ; & de l'exécutrice. Si
 “ elle étoit jointe à la puissance législative, le
 “ pouvoir sur la vie & la liberté des citoyens
 “ seroit arbitraire ; car le juge seroit législateur.
 “ Si elle étoit jointe à la puissance exécutive,
 “ le juge pourroit avoir la force d'un oppres-
 “ seur.” *There is no liberty, if the power of*
judging be not separated from the legislative and
executive powers. Were it joined with the le-
gislative, the life and liberty of the subject would
be exposed to arbitrary controul ; for the judge
would be then the legislator. Were it joined to
the executive power, the judge might behave with
all the violence of an oppressor.

Here the Governor, who exercises the exe-
 cutive and a share of the legislative power,
 holds and exercises also, two of the most con-
 siderable judicial offices ; for he is *Chancellor*
 and he is *Ordinary* : Jurisdictions, which, in
 the course of a very few years, bring the great-
 est share of the property of this country to his
 determinations. As judge of these courts,
 then, and by the influence he may acquire
 over those of all the others, the Governor is
 vested with a very unconstitutional power : a
 power, which puts the lives, liberties and pro-
 perties of the King's subjects here, too much
 in his mercy ; and, which would leave them
 no security for any thing, if the courts of jus-
 tice, particularly those in which he presides,
 were not subject to the inspection of, and sub-
 ordinate and amenable to, the representatives
 of the people, as they are in England.

I know of no power exercised by the house
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of Commons for redressing grievances, or bringing public offenders to justice, which the Assembly is incapable of. I know of none which it has not exercised at times, except that of impeachment; and this has been forborn, not from any incapacity in that body, but from a defect in the power of the council. An impeachment by the house of Commons in England, must be tried in the house of Lords; it being below the dignity of the Commons, to appear as prosecutors at the bar of any inferior court.

The council or upper house here, have no jurisdiction in criminal cases, and the Assembly being also above prosecuting in the inferior courts, do therefore not impeach, only because there is no judicature, which they can in this case with dignity resort to: But the Assemblies of Jamaica have always been used to enquire into the abuses and corruptions of office, the obstructions to public justice, and the complaints of subjects, oppressed by the hand of power, and to bring the offenders in such cases to justice. If an offender be in any station below the Governor, their custom has been, to lay the evidences of his guilt before his excellency, and by address desire, he may be prosecuted and dismissed from the office he has abused. If the oppression comes from any of the courts or offices, which the Governor holds, they seek for redress by an application in the same manner to his Majesty; insomuch, that public officers and magistrates of all ranks, from the justice of the Peace, up to the chief

justice, the members of his Majesty's council and the Governor, have at times been made to feel the weight of this authority, and to suffer for their excesses; so that, tho' the Assembly do not impeach, yet they exercise powers as constitutional, and every way as effectual, to protect the subject, and bring the guilty to punishment.

And I appeal to every man, who has any knowledge of the history and constitution of this Colony, whether the salutary and frequent exercises of these powers, have not been our main defence against oppression, and our best security against the ill effects of that formidable and unconstitutional share of power, which our Governors are armed with.

Our present Governor is said to possess, together with the most amiable private qualities, a great deal of learning, a very extensive knowledge of the constitution of Britain, long experience and habitudes in business, and very singular talents for government. I am ready to allow his excellency all the good qualities he possesses. If we could be always sure of good Governors, to contend for privileges were but vanity, perhaps, and folly. But, as the same God, who in his mercy gives wise and religious and just Governors, may also in his displeasure, and for our sins, permit hypocrites and tyrants to rule over us; we should not yield to any illegal or unconstitutional act of a good Governor, which may be drawn into precedent, and made an oppressive use of, in the time of a bad one.

Such

Such, I think, was our Chancellor's late discharge of a commitment by the Assembly, as well as the record of his judgment upon that occasion : a record, which does avowedly subject the jurisdiction and power of commitment of that house, to the judgment of an inferior court, and which, if suffered to stand, most effectually disarms the Assembly, and consequently, leaves the people without any protection, against the oppression and injustice of courts, or the corruption, the rapaciousness and iniquity of future Governors. To illustrate this, give me leave to suppose a very possible case. Suppose the day arrived then, when our present Governor shall be recalled : Suppose his successor already in possession of his government ; and suppose him, a man every way the reverse of this, poor, needy, and rapacious ; depending for his support upon some powerful minister ; who, having subsisted him for the former part of his life, will be ready to support him in his government, against the complaint of any injured man, in order to prevent his becoming again a burthen upon him. Suppose him, in short, sent here to fill his bags, and perhaps, to execute the vengeance of a ministry upon this unhappy Colony, for having in some instances, opposed their will and pleasure.

He begins his administration with new modelling the courts of justice, and disposing them for a blind obedience to his will. He displaces the judges, and fills the bench with such men, as he can depend upon. He displaces the Attorney General, and puts a man in that office,

office, exactly fitted for his purpose, and obsequious to his commands. Every thing thus prepared, the scene opens, and oppression of every kind, and from every quarter, is let loose upon the people. The patent officers, their deputies, and even their deputies' deputies, (for some time past very impatiently kept within bounds, by his majesty's gracious proclamation, by the integrity of the Governor, the power of the Assembly, and the justice of the courts) now resume their spirits: and (the Assembly disarmed, the tyrant bribed, the proclamation forgotten, the courts of justice secured, and all obstacles removed) they practice every kind of exaction with impunity; and like a torrent that has been for some time withheld, overflow the land, and leave every where marks of their rage and violence. In the courts of law, all is injustice and oppression; the guilty are screened from punishment by *nolle prosequi*; the innocent are harassed by informations; juries are packed, men are convicted of crimes not committed, and upon laws not violated; and obliged to give up a great part of their substance, in order to purchase a quiet enjoyment of the remainder; to purchase a temporary exemption from punishment, or to preserve a paltry existence.

But, bad and wretched as is the condition of the subject in these courts, it is worse as you go higher, *procul a Jove, procul a fulmine*. Take a view of the courts where the tyrant presides in person, and you will find that corruption, injustice, rapine and oppression, know no bounds,

bounds, where judicature is uncontrouled. Here, the law of the land is trampled upon, and instructions are brought to supply its place. Here, in violation of MAGNA CHARTA, justice is sold; it is delayed by an unreasonable protracting of causes; it is denied by discouraging appeals from the inferior courts, and refusing them in his own. Under these discouragements commerce languishes for some time, and then forsakes us: the merchants quit the country, and the ships do not frequent it; money is scarce; the planter's produce lies on his hands, an useless drug; and the necessities of life and the implements of industry are furnished, upon the most exorbitant terms, exorbitant, in proportion to the uncertainty of payment.

In this extremity, what relief has the wretched subject? his Majesty's ears, it is true, are ever open to the complaints of his people, and his royal heart is graciously disposed to relieve them; but alas! how few of the wretched people will be capable of applying for this relief? some will be deterred by threats, and the dread of that unlimited power, which hangs over them: many more will absolutely be disabled by poverty; and the few, who may have this remedy within their reach, will be those who have been least oppressed, and who therefore least deserve compassion.

At last, the occasions of government, or perhaps an order from home, make it necessary to call an Assembly. Hope is the companion, and too often the only relief of the unhappy,
who

who are ever prone to entertain it upon the slightest grounds. These wretched people then begin to flatter themselves with hopes of relief from their representatives; from that body, which was wont to shelter them against all oppression. Fondly imagining this circumstance to be a signal, and a forerunner of returning liberty, they joyfully hail the happy omen, and expect the meeting with eagerness and impatience. The Assembly met; the unhappy and oppressed people flock in crowds to their doors, the fathers of families, disconsolate widows, and helpless orphans, dispossessed of their properties, groaning under oppression, and covered with misery and want, present themselves at the bar; set forth their grievances, and in the most moving attitudes, and with all the pathetick eloquence of distress, implore the relief and protection of the house. The house receive their complaints, and vainly imagining themselves possessed of their privileges and antient powers, they (according to the practice of their ancestors) give the redress of these grievances the first place in their deliberations. They take the examinations of the injured, and summon the wicked instruments of oppression before them, in order to gain the fullest information about their oppressions; and, according to their duty, lay the facts before his Majesty, for redress. Here they are stopt, their dreams vanish, the criminals refuse to appear before them, and the house is given to understand, that they were called together for the granting of money, and, that this (tho' the

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the least and meanest end of their original institution) is now, the only power they have a right to exercise. In vain do they order the delinquents into custody; the chancellor, by virtue of the precedent before him, discharges them; and this odious record now appears to them in its proper shape, as a most dreadful instrument of tyranny and oppression.

This, my dear sir, is a picture of the miseries we are all liable to, if the court of Chancery is suffered to determine the privileges, and controul the jurisdiction of the Assembly. Do not think it overcharged: It is not drawn from the extravagant images of an active fancy; be assured it is taken from life; from what has already happened, and does now actually exist. If we are to give any credit to written accounts of voyagers, or to the evidence of those, who have been on the spot, it is a faithful representation of what our neighbours, the American Spaniards, do at this time endure. Nor is there an oppression, injustice or hardship in all the above catalogue, which that unhappy people have not at times been made to suffer; and all, from a power in their courts of justice, which has no constitutional, or effectual controul; for where the judicature of a country is without some constitutional check, sufficient to keep it within bounds, I defy any man to shew me, what security the people of such a country can have, for their lives, their liberties, or their properties. It is true that, were

we base enough to part with our defence and give up the jurisdiction and privileges of the Assembly, it is not certain, it is perhaps not probable, that all the ill consequences I have enumerated, would at once flow from it, and be felt by the present generation, in their utmost severity. But it is probable that some, and possible that all of them might follow: And, whilst such a possibility remains, we are, to all intents and purposes, slaves, as much as the aforesaid unhappy Spaniards, or any other slaves. Our condition in that case, even tho' we do not actually suffer the same hardships, differing from theirs, only, as that of a slave who has an indulgent master, differs from his who has a cruel one; *for, it is the power which any man has of taking my life, liberty, or property without my consent, that constitutes and defines slavery.* You see, then, the importance of the present contest; and, of how much consequence it is, especially to us who are fixed to the soil; since every thing that an Englishman holds dear, is staked upon the issue of it.

In a contest, where the struggle is for *all*, it would be surprising to find any one so foolish, or so abandoned, as to contend for giving up the point; did not history (to humble the pride of man) shew us, that all ages, and all countries, have produced some so stupid, as to sell their birthright for a mess of pottage; so base and degenerate, as to court the yoke. And historical justice has in vain delivered these wretches down to posterity, as criminals,
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in the most odious colours; since the world still continues to produce such monsters. The number, indeed, of men amongst us, who contend for slavery, is, (thank God) small: and some of these, no one is sorry to find engaged against their country. They have, very happily and properly, lifted in such a cause; since the immorality of their characters would disgrace a better. But there are others, on the same side, of a very different stamp, men, who wander not from the right way intentionally, but as having been misled. These, every good man is concerned for, and wishes to be reclaimed; since it is for the public good, that all honest men should think alike, and act together, in a matter of such public concern.

I think it impossible, such men should continue in their errors; if they would only take the trouble of examining by the light of their own reason, the arguments which are made use of to persuade, to frighten us out of our freedom; arguments, that affront our spirit, and insult our understandings. We are told, for instance, in the public papers, we are told it in private, that if the Assembly does not proceed to business, (their privileges unvindicated) we shall lose our Legislature. We are told further, that his Majesty in council has determined against us, and has given us to understand, that if we insist on our privileges, he shall be under a necessity of applying to his Parliament, to make laws for us. I have seen no such order of council; and

the person, who is said to report, that there is such an one, deserves so little credit, that I will not believe it, before I have better authority. Till then I shall consider it as an impudent calumny, calculated for the dirty purpose of serving some turn, and tending to cast a reflection upon the justice of the most gracious and best of kings, upon the integrity of his ministers, and the lords of his Majesty's privy council, and upon the honour and independence of a British Parliament. If I do see such an order, I cannot resist demonstration, but I shall consider it as an abuse of his Majesty's name and authority, by his ministers, and such an attack upon the people of this Colony, as, if submitted to, or forced upon them, proclaims them slaves.

By the law of England the king can do no wrong, but the law supposes his ministers may; and they are accountable to their country for every wrong or oppressive act, that is done in his Majesty's name; and every individual, wronged by their act, has a right to complain, and to seek a lawful redress. We have a king upon the throne, as incapable, from the graciousness of his disposition and the natural goodness of his heart, of doing any wrong, as he is supposed by the law to be, in his political capacity; a king, who glories in being born a Briton. Every good subject ought; every subject in this Colony. I am sure, would shed the last drop of his blood, in defence of his Majesty's crown, and to preserve it in his royal line.

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To his ministers every good subject owes respect, while they act in their several departments, for the public good. When they cease to do so ; they forfeit all title to respect.

To a British Parliament, every subject throughout the British dominion, owes the highest respect and reverence, and to their laws obedience.

Resolutions of his Majesty in council, are not laws : and if they are against law, no subject is obliged to obey them. If such a resolution as is mentioned, were to be procured in the case of the meanest corporation in England ; if condemned unheard, they were to be told, that, if they did not yield to the dictates of a minister, in a point of the last consequence to their freedom, his Majesty would apply to Parliament, in order to disfranchise them ; what, do you think, would in this case, be the consequence ? Do you think, the meanest corporation in England would submit to such an outrage ? Or, would any minister be safe in committing it ? I believe not. I believe, his Majesty would resent it, as an abuse of his name and authority : the Parliament would, I believe, consider it as a daring attempt to degrade them, from the glorious title of protectors of the British liberty, to the base purposes of oppression.

Unhappy Jamaica then ! Is it so fallen, as to become of less consideration, than the meanest corporation in Britain ? Have we deserved so ill of the nation, as to be thrown out of the protection of the laws, stript of
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our privileges, and left to the mercy of a ministry? I will never think so. Let us not think so ill of his Majesty and of his Parliament. They do not deserve it of us. Let us not think so desperately of ourselves, we do not deserve so ill of them.

The Assembly of Jamaica have made no violent, no oppressive use of their privileges. An attack was made on their privileges, as wanton, undeserved, and unprovoked, as it was irregular and dangerous to liberty. It is invidiously said, that a power in the Assembly of commitment without controul, would be very dangerous to liberty. It is not pretended, that the Assembly have such a power without controul; there is no such thing in the English constitution. The courts of justice are controuled by one another, according to their different ranks: and the house of Commons, as their superior in rank, controuls them all. But the house of Commons is also subject to a constitutional controul, when they exceed their power or stretch it, to the purposes of oppression. If they oppress the people, the king has a power of sending them by a dissolution, back to the people; and those they have oppressed, will not again trust them with the power they have abused.

In our constitution, there is no such thing as a wrong without a remedy. But then you must apply to the proper jurisdiction. If you do not, you cannot expect a remedy. If a man, for instance, was to insist upon the officer of the crown's indicting his obligor in a bond,

bond, because he did not pay his obligation to the day; would he not be laughed at? Would any officer bring such an indictment? If a man, instead of indicting one for killing his brother, were to file a bill in Chancery; could he reasonably complain, if his bill was dismissed? If the obligee in the bond, or he who had lost his brother, had each of them applied to a proper jurisdiction, they would have been redressed. As they did not do so, could they reasonably arraign the justice of the government; or with any colour say they were denied justice? so if Cook and M'Neil chose to apply to the chancellor, in order to be released from a commitment of the Assembly; they applied to an incompetent jurisdiction; a jurisdiction that could not constitutionally release them; and altho' the Assembly had even committed them unjustly; yet they could not complain, if the Chancellor had remanded them; because they had a remedy, but would not apply to the proper place for it.

Thus you see, the attack in this instance was irregular and unconstitutional. It was wanton, because these men ought to have gone first by petition to the Assembly, where they would have been most certainly relieved. But this it seems, was too humiliating for men of their figure; and they disdained it.

It was unprovoked and undeserved; because the Assembly was going on with business in a regular course, and did not in this go out of their way; and because there never was nor
ever

ever will be, an Assembly better disposed to support administration.

If the Governor thought the Assembly were oppressing these men; yet, as *Chancellor*, he ought to have remanded them; tho' he might in this case have dissolved the Assembly, as Governor; and if he had done so, the privileges of the Assembly would not have been infringed, the men would have been released, and he would not have exercised a power unconstitutional and dangerous to liberty, and would therefore have given no reasonable cause of Offence.

* * * The fate and condition of Ireland should be a document and warning to all the Colonies. Ireland, inhabited and possessed by the children of England and of those who conquered it, was once free. It is not so now. An artful Governor (Sir Edward Poinings) sent to them, perhaps, for that purpose, by Hen. VII. cheated them out of their liberties, that is, into an act of Parliament that fixed a yoke about the nation, which their posterity have ever since been groaning under the weight of; and the Irish enjoy at this day, less liberty than any other subjects in the British dominions. This could not have happened without their consent. Let any man look over the list of Pensions on the Irish establishment, published not long since, and he will see, what a milch-cow that unhappy kingdom, (with such a curb in its mouth) is to a British ministry.

It is this honourable badge which ministers have been long endeavouring to adorn the Colonies

lonies with. In Charles the II^d's time, the Earl of Carlisle was sent hither our Governor, and brought with him a body of laws, fashioned after those of Ireland, with *instructions* to get them passed here. But our ancestors rejected them with indignation; no threats could frighten, no bribes could corrupt, no arts or arguments could persuade them to consent to laws, that would enslave posterity; and therefore we are free.

The endeavours of successive ministers were continued for this purpose, until the year 1728, when King George the II^d gave his royal assent most graciously to an act, commonly called the Revenue Act, which put an end to the contest; for in that act it is declared, " That all
 " such laws and statutes of England, as have
 " been at any time, esteemed, introduced,
 " used, accepted or received, as laws in this
 " Island, shall be and are hereby declared to
 " be and continue laws of this his Majesty's
 " Island of Jamaica, *for ever.*"

And his Majesty's consent to this law, which may be called our great Charter, was purchased by granting therein a perpetual revenue, to his Majesty and his successors. By this law, we are precisely entitled to all such laws of England, as have ever been used here. Now, our court of Assembly, as appears by their minutes, have ever governed themselves, and exerted their jurisdiction in cases of privilege, by the law of Parliament.

The law of Parliament has ever been allowed by all lawyers and judges, to be part of the

of England; I would therefore be glad to hear, by what quirk or subtilty it could be distinguished, in our case, as *no law of England*.

Have our ancestors, in the infancy of this Colony, in the arbitrary reigns of a Charles and a James, and when prerogative was unlimited, and liberty undefined, thus nobly withstood every attempt to enslave us? And shall the present generation, now when liberty is established, and prerogative limited, do less for posterity? God forbid! The conjuncture is, most certainly, critical; our danger great, and the power we have to contend with formidable. But the spirits of a brave People should rise, in proportion to their danger. It is the part of slaves, to submit to Oppression; it is the part of cowards to shrink at the appearance of danger. We are not slaves, we cannot be made so without our consent, as long as Great Britain is free. If we suffer ourselves to be frightened out of our liberties, we are cowards: if we give them up from any other motives, we are traitors; traitors to the present generation; traitors to posterity. But if, after having done our utmost, they should be wrested from us, by a stronger power; every man who has done his duty, will have the testimony of a good conscience for his comforter; and *mens sibi conscia recti*, the greatest comfort of a good man, will be ours. His Majesty, and every honest man in Britain will think the better of us, for shewing a manly resolution and constancy, in defence of our privileges. His Majesty will think the
better

better of our loyalty, for our love of liberty; for his throne is founded on liberty, and it is his greatest glory to reign over a brave, a loyal, and a free People.

To conclude, we have received our liberties, as an inheritance from our fathers, and we are bound to transmit them to our children, unimpaired. If we do so, we shall do our duty; if we do otherwise, we shall act with the basest treachery and impiety: we shall deservedly incur the censure, the contempt, the abhorrence of all honest men, and entitle ourselves to the curses of posterity.

I am, &c.

Jamaica, August 10th, 1765.

F I N I S.

APPENDIX.

Historical account of the establishment

Colony of JAMAICA.

Its Constitution, form of Government
and progress from the discovery thereof by
the English, until the year 1694.

From a manuscript of an ancient author.

AFTER the conquest of Jamaica,
part of the army being left for its
garrison, and a detachment of those
who should be sent to the island and plant
there, were sent to the rest of their
country, and were ordered to plant the re-
mains of the island. The first
settlement was made at Spanish Town,
and the first house was built. The
first governor was Sir Thomas Baskin-
seth, who arrived in the year 1655.
The first plantation was made at
Spanish Town, and the first
plantation was made at Spanish Town.



APPENDIX.

A N

Historical account of the establishment

O F T H E

COLONY of *JAMAICA*,

Its Constitution, form of Government,
and progress from the Conquest thereof by
the ENGLISH, until the year 1684.

NOW FIRST PUBLISHED,

From a manuscript of undoubted authenticity.

1. **A**FTER the conquest of Jamaica, part of the army being left for its security, and the protection of those who should be induced to settle and plant there; martial Law became the rule of their government, and was continued until the restoration of king Charles the second.

2. But his said majesty, graciously bending his thoughts and councils to promote the prosperity of this colony, soon resolved that the army should be disbanded, and that a civil government should be erected, under such

a

known

known customs and laws, as would render the country agreeable to the inhabitants and beneficial to his kingdom.

3. Accordingly, Colonel Edward Doyley, by his majesty's commission under the great seal of England, dated the 8th of February 1660, was appointed governor of the island of Jamaica; and was directed to proceed forthwith to the electing of a council to consist of 12 persons, whereof the secretary of the said island was to be one; and the rest to be fairly and indifferently chosen by as many of the army, planters, and inhabitants, as by his best contrivance might be admitted; and with their consent, the said governor was impowered to act according to such just and reasonable customs, and constitutions, as were exercised and settled in his majesty's other colonies, or according to such other as upon mature deliberation should be held necessary, for the good government and security of the island; provided they were not repugnant to the laws of England.

4. In obedience to this commission, a council was elected by the country in the nature of their representatives; several municipal laws were enacted, civil officers were constituted, and provision made by a revenue act, to support the charge of the government, which was then computed at 1640l. per annum.

5. But the Spaniards frequently disturbing them in their new possessions, the army was
still

still kept on foot; which preventing the increase of the colony, and restraining the industry of the inhabitants, the planting and breeding of cattle during this governor's administration, were very little intended.

6. The first essay towards the establishing and settling of the government, proving therefore deficient, his majesty constituted the lord Windsor, governor of the island, and by his gracious proclamation of the 14th December, 1661 (which his lordship carried with him) granted great encouragement to the planters, and declared that all the children of his natural born subjects to be born in Jamaica, should be free denizens of England, and have the same privileges to all intents and purposes, as the free born subjects of England.

7. And, as his lordship's commission and instructions contained greater privileges, concessions and indulgences to the inhabitants, than those that were sent to his predecessors; so they were better calculated for the more effectual establishment of the government; by directing, that it should be *assimilated* to that of *this Kingdom*; and to this end he was empowered to appoint his council, and to call assemblies according to the custom of his majesty's other plantations, to make laws, which were to be in force for two years and no longer, unless confirmed by his majesty, and upon emergent necessities to levy money &c.

8. My lord Windsor, not enjoying his health, remained there but a few months; however, he settled the militia, and consequently disbanded the army.

9. Upon his departure, in October or November 1662, Sir Charles Lyttelton*, at that time chancellor of the island, succeeded in the government, and in October 1663, by advice of his council, called the first assembly, which consisted of 30 persons; and upon their meeting they enacted a body of laws, with an act for raising money for the publick uses wherein the *collection, disposal and accounting, was appointed by the assembly.*

10. In 1664, Sir Charles Lyttelton, left the government under the care and direction of the council, who chose Colonel Thomas Lynch president, 2500 of the inhabitants were then regimented, besides 4 or 500 more, dispersed in the country; and their provisions (as he asserted) infinitely increased.

11. This account was so acceptable to his majesty in council, that Sir Thomas Modyford was recalled from Barbadoes, and by commission under the 15th November 1664, was constituted governor of Jamaica, with power to erect judicatories, to call assemblies and with their consent, to *make, ordain and constitute, all manner of LAWS, STATUTES and ORDINANCES, and upon imminent occasions to LEVY MONEY* for the good and safety of the publick; which laws were to be, as
near

* Grandfather to the late governor.

near as might be, suitable, and agreeing with the laws of England.

12. Accordingly in his first year he called an assembly, who enlarged and re-enacted the former laws, and these upon some assurances given him of his majesty's approbation, were continued in force during his government, which ended in the year 1670.

13. By the muster rolls of the militia, about this time, transmitted to the lords of the committee for trade, it appears, their number was 2720; and that the number of seamen in and about the island was, 12500; privateering being then the great business and concern of the island.

14. But an end being put to that trade, soon after the conclusion of the American treaty with Spain, and the government being confirmed by the new governor's (Sir Thomas Lynch) commission and instructions, the improvement of the island was industriously prosecuted and encouraged, and the planters increased, by the constant accession of others, from all the several parts of his majesty's dominions.

15. An assembly was call'd soon after his arrival, by whom the laws that were passed and expired in the time of the preceding governor, were altered and enlarged; and in two years after, not being confirmed, they were again re-enacted and sent to England, for his majesty's royal approval.

16. My

16. My Lord Vaughan succeeded Sir Thomas Lynch in 1674, his commission named his counsellors, directed his calling assemblies to be chosen by the freeholders and planters, according to the custom and usage of Jamaica: who were to be deem'd the representatives of the people, to make laws as near as conveniently might be, agreeable to the laws and statutes of England; these laws to continue in force for two years, but none to be re-enacted, except upon very urgent occasions, and in no case more than once, except with his majesty's express consent.

17. His lordship immediately summoned an assembly, and passed all the laws that were then expired, which were sent to England to be confirmed or otherwise disposed of as his majesty should determine: but not being returned at the end of two years, another assembly was called, by whom all the same laws were re-enacted except the revenue act, which was rejected by his lordship.

18. As my lord found the island in a flourishing condition, and that the people had been easy and well pleased under the mild and successful government of his predecessor, so by his indulgent, steady and impartial conduct, he greatly contributed to the increase, both of the strength and trade of the island.

19. By an account of the Militia sent home, not long after his departure, they were augmented

mented to 4526; a greater number than they have ever since mustered.

20. And the planters exported, in the 4 years from the commencement of his government, very near three times as much sugar as they had exported, in the three and three quarters preceding years.

21. Nevertheless, this prosperous course was soon interruted, for upon the examination of the laws then in force at Jamaica, such objections were raised by the lords of the committee for trade, that his majesty was pleased to reject some and direct the new modelling of the rest, which were to be sent back, that *they may be passed by the assembly after the manner in Ireland*, according to POYNINGS LAWS, to which rule they were to be bound for the future.

22. And the assembly having imprisoned one of their members, for several misdemeanors and breaches of orders of their house; the privileges they insisted on as natural and necessary to the representatives of that colony, which were *the same that the house of commons have in England*, were likewise controverted.

23. The aforesaid laws were accordingly returned to Jamaica in 1678, by the Earl of Carlisle their new governor, who on his arrival, called an assembly, in order to pass the same; but they being very much dissatisfied with this frame of government, and with their losing *their deliberative part in making and passing their laws*, REJECTED THEM.

24. The

24. The next year 1679, the said laws were again transmitted thither, under the broad seal of England, and tho' his majesty was advised to furnish his governors and their council for the time to come, with power to raise money, as had been practiced in their infant state, *if they did not comply with his royal commands*, YET THEY AGAIN REJECTED THEM.

25. It would be too tedious to enter into the arguments and reasons, that on the one hand were urged to oblige the assembly to comply; and on the other, that were offered to support the necessity of re-establishing their late constitution.

26. However it must be observed, that on the 33d of June 1680, his majesty in council was pleased to order, that the following questions should be proposed to all the judges, *viz.*

27. Whether by his majesty's letter, proclamation, or commission, annexed, his majesty had excluded himself from the power of establishing laws in Jamaica? it being a conquered country, and all laws settled by authority there, being now expired.

What was reported hereupon by the judges doth not appear; neither is it material, since his majesty very graciously condescended, after hearing colonel Long and colonel Beeston (who were deputed by their colony to support their allegations) and the planters and Merchants then residing in London, by and with the

the advice of his most honourable privy council to determine in their favour; and accordingly by a new commission to the Earl of Carlisle, under the broad seal dated the 3d of November following, not only restored to the island their former government, and all privileges they had hitherto enjoyed, but enlarged them, and in consideration of the languishing state of the country, granted, that the quit-rents, &c. there arising to his majesty, should hereafter be appropriated and applied, to the use of the publick.

29, The Earl of Carlisle having left Jamaica during this debate, Sir Thomas Morgan, acted as lieutenant governor in his absence: his lordship declining to return, his majesty gave the island a further instance of his great favour and goodness, and in 1681 appointed Sir Thomas Lynch, governor, and impowered him, with the advice and consent of the *Assembly and Council*, to make such laws as should be conducive to his majesty's interest, and agreeable to them; accordingly in 1682, several new laws more passed by the *Governor, Council and Assembly*, whereof 28 on the 23d of February following, were approved and confirmed by his majesty, for seven years, and those with some others, that compleat the first volume now in print, on the 17th of April, 1684, were approved and confirmed by his majesty for twenty one years, and are still in force.

30. In this manner was the legislature of Jamaica at last happily settled, to the great satisfaction and encouragement of the inhabitants; and as this government was assimilated as near as possible to the government of this their mother kingdom, so their assemblies were **ALLOWED, AND ENJOYED**, the same privileges that the house of commons possessed there.

31. And since my Lord Windsor, under whose commission assemblies were first established, were directed to do and execute all things according to such reasonable laws, customs and constitutions as should be settled, provided they were not repugnant to the laws of England, but agreeing therewith as near as the condition of affairs would permit; and that the succeeding governors commissions are of the same import, as it cannot be doubted, it was absolutely necessary the assembly should have rule to go by; so it is submitted, whether the governors had it not in their power to prescribe this known rule to themselves, and to the assembly, and whether they could lay down a better.

32. Their opinions however both of the constitution and privileges of the assembly of Jamaica, will appear by what follows.

In the year 1669 Sir Thomas Modyford answers to the lords of the committee for trade, upon their enquiring how the legislature was settled.

33. That

33. That the legislative power of making and repealing laws, is settled in the governor as his majesty's commissioner; in his majesty's council, as representing the lords house; and in the assembly, composed of the representatives of the freeholders, two persons elected out of each parish, and three chosen as the commons of England, being an humble model of our high court of parliament. Each of the respective bodies enjoying a negative, as well as an affirmative vote.

34. The lord Vaughan, on a question that arose about the method of passing laws, declared to the assembly, that he should guide himself *according to the usage and custom of parliaments in England.*

35. The assembly, in an address to the earl of Carlisle upon the objections that were made against the imprisoning their members for misdemeanors, &c. say,

36. They hope it is justifiable, the king's governor having assured them that they have the power over their members which the house of commons have, and all speakers here praying and the governor granting, the usual petitions of speakers in England.

37. Sir Thomas Lynch, about the same time being called upon to give an account of the government of Jamaica, argues thus.

If the king's commissions have appointed assemblies, and if they have been constituted in all the colonies from their first establishment as a government, the most just and like

this of England, then they hope that they alone of all the colonies, shall not be retrenched in any of the privileges, natural to such assembly; and upon the aforesaid design relating to the passing of their laws, he offers it as his opinion, that it was probable the assembly would reject the laws, and that it was possible, the council might join with the governor, to order those laws to be continued; but he verily believed that they would not continue the revenue bill, for that they thought peculiar to the assembly.

38. In said Sir Thomas Lynch's state Jamaica, which he transmitted to England in 1663, when he was placed the third time at the head of government, and after its re-establishment, he asserts.

That all the methods and proceedings of of the assembly were conformable to those of English parliament, as much as so little a body may to so great a one.

And in another account he adds thus. The king, by his charter of government as commissioner has constituted assemblies, that are umbroes of an English parliament.

39. Neither were such concessions inconsistent with the antient nor the modern constitutions of colonies, for as Grotius observes, the Grecian colonies (which constituted particular common wealths) were to enjoy equal privileges and liberties with their mother cities; and those that were afterwards planted by the Romans, were models of that republic;

lick ; notwithstanding they kept them in subjection and dependency ; to which example, all the nations in Europe have in general, ever since respectively adhered.

40. From the whole therefore it's very apparent, by what rule the assemblies of Jamaica, were at first constituted and afterwards directed ; and since neither the standing rules of that assembly, nor the privileges they enjoyed, were ever disallowed at home or opposed abroad, during the reign of king Charles the II^d, it was manifest upon what foundation they stood.

41. And it is humbly submitted whether any frame of government less perfect or less acceptable to the inhabitants, could have supported them under those terrible calamities and severe judgments, to which they have been since exposed, or have enabled them to sustain the losses and damages they have suffered ; and to surmount those difficulties, under which they have long laboured.

An extract from the
Notes of the honorable house of Assembly
for that purpose.

J A M A I C A ;

Relative to the commitment of *Thomas Willson, Peirce Cooke, and Lachlan M'Neil*, into custody of the Messenger, on the complaint of *John Olyphant, Esq;* a member of the house, for a breach of privilege; with the resolutions of the house thereon, and in consequence thereof.

Sabbati, 8 Die Decembris, 1764.

UPON complaint made to this house, of a breach of privilege committed by *Richard Thomas Willson*, in executing a writ of venditioni exponas on the coach-horses of *John Olyphant, Esq;* a member of this house, at the suit of *Mr. Pierce Cooke*.

Resolved, That the messenger attending this house, do apprehend the said *Richard Thomas Willson*, and other the persons concerned in executing the said writ, and bring him or them

(vix
xv)

them in custody, to answer his or their breach of privilege for the same.

Ordered, that Mr. Speaker sign a warrant for that purpose.

Jovis 13 Die Decembris, 1764

The messenger being called in and asked by Mr. Speaker whether he had executed the warrant against Richard Thomas Willson, for a breach of privileges of this house, informed the house that he had, and had him then in custody.

Ordered, That the messenger do bring the said Richard Thomas Willson to the bar of the house to-morrow morning, to answer his breach of the privileges of this house.

Veneris 14 Die Decembris, 1764.

Richard Thomas Willson according to order was brought to the bar of the house to answer his breach of privilege, in executing a writ of venditioni exponas on the coach horses of John Olyphant, Esq; a member of this house, and it appearing upon his examination that Mr. Pierce Cooke was assisting in the said execution.

Resolved, That Mr. Pierce Cooke in assisting the said Richard Thomas Willson in the execution of the said writ, is guilty of a breach of the privilege of this house.

Ordered, That the messenger of this house

do apprehend the said Pierce Cooke, and bring him to the bar of this house to-morrow morning, to answer his breach of the privileges of this house, and that Mr. Speaker sign a warrant for that purpose.

Ordered, That Richard Thomas Willson be remanded into the custody of the messenger.

Sabbati, 15 Die Decembris, 1764.

Resolved Nemine Contradicente, that it has appeared by the examination of Richard Thomas Willson, that Lachlan M'Neill, deputy-Marshal, did direct him to execute a writ of venditioni exponas against John Olyphant, Esq; a member of this house.

Resolved Nemine Contradicente, that the said Lachlan M'Neill, has, by such direction been guilty of a breach of the privileges of this house.

Ordered, that the messenger of this house do apprehend the said Lachlan M'Neill and bring him to the bar of this house on Tuesday morning next, to answer his breach of the privileges of this house; and that Mr. Speaker sign a warrant for that purpose.

Resolved Nemine Contradicente, that no member of this house during the continuance of this assembly have any privilege except for his person only, against any of his majesty's subjects, in any suit or proceeding in courts

of
your respective districts as magistrates and
militia

of law or equity for any longer time than the house shall be actually sitting for dispatch of business.

Martis, 18 D'e Decembris, 1764.

His excellency in his majesty's name, by and with the advice of his council, was pleased to prorogue the assembly until Wednesday the 19th day of December instant.

Mercurii 19 Die Decembris, 1764.

THE house being met, according to prorogation, Mr. Chaloner Arcedeckne waited on his excellency, and acquainted him therewith.

A message from his excellency by the provost marshal, acquainting the house, his excellency, in his majesty's name, commanded the attendance of the house immediately in the council chamber; accordingly Mr. Speaker, with the house attended, and being returned, Mr. Speaker reported, they had attended his excellency, and that he was pleased to make them a speech, whereof Mr. Speaker said (to prevent mistakes) he had obtained a copy, which being read by the clerk, was ordered to be entered, and is as follows:

Mr. Speaker, and Gentlemen of the Assembly,

AS I passed many acts during your late season, and the session of the year is so far advanced, I shall only recommend to you to grant the proper supplies for the support of government; and I hope you will avoid all unnecessary delays, as your presence in your respective districts as magistrates and

military officers will be particularly beneficial at this juncture.

A motion was made, that an address be presented to his excellency for his speech at the opening of this session.

Ordered, that Mr. Long, Mr. Edwardes, and Mr. Attorney-General, be a committee to prepare and bring in the same.

And that his excellency's speech be referred to the said committee.

Resolved, that the rules of the last session be the standing rules of the house.

Resolved nemine contradicente, That every member of this house enjoy the privileges of his person against arrest and imprisonments, in such manner as has been heretofore used and accustomed.

Resolved nemine contradicente, That no member of this house have any privilege in cases of treason, felony, breach of the peace, or forcible entries, or forcible detainers.

Resolved nemine contradicente, that no member of this house hath any privilege in regard to his goods and chattels, except such as are necessary for his accommodation during his attendance on the house.

Resolved nemine contradicente, That no member of this house hath any privilege against payment of any aids, supplies or taxes, granted for the support of his majesty's government of this island, or of any parish duties.

Resolved nemine contradicente, That the reflecting upon the proceedings of this house,

or

or any member thereof, for, or relating to the service therein, is a high violation of the rights and privileges of this house.

Resolved nemine contradicente, That the misrepresenting the proceedings of this house, is a breach of privilege and destructive of the freedom of this house.

Resolved nemine contradicente, That to assert that this house have no power of commitment but of their own members, tends to the subversion of the constitution of the house.

Resolved nemine contradicente, That no person committed for breach of privilege by order of this house, ought to be discharged during the session of assembly, but by order or warrant of this house.

Resolved nemine contradicente, That Richard Thomas Wilson, who was in custody of the messenger attending this house the last session of assembly, for a breach of the privileges of this house in executing a writ of venditioni exponas on the coach horses of John Olyphant, Esq; a member of this house, the house then sitting, and Mr. Pierce Cook, who was likewise in custody the last session of assembly, for directing the said Richard Thomas Wilson in the execution of the said writ, and Lachlan M'Neil, deputy-marshal, who was likewise in custody the last session of assembly, for directing the said Richard Thomas Wilson to execute the said writ, be again severally taken into the custody of the messenger, and that Mr. Speaker sign warrants for that purpose.

Resolved nemine contradicente, That Edward Bolt, Esq; messenger of this house, in

having received and detained, and in receiving and detaining in custody any person or persons, committed by order of this house, shall have the assistance and protection of this house.

Ordered, That the above resolutions be printed in the public news papers.

Resolved, That all standing committees of the last session be revived.

A motion was made, that a committee be appointed to bring in a bill, for the better qualifications of persons elected to serve as members in any future assemblies of this island.

Ordered, That Mr. Attorney general, Mr. Arcedeckne, and Mr. Long, be a committee to prepare and bring in the same.

Resolved, That this house will immediately resolve itself into a committee on his excellency's speech.

The house according to order, resolved itself into a committee on his excellency's speech, and after some time spent therein Mr. Speaker resumed the chair, and Mr. Chief Justice from the committee, reported they had gone through the same, and had come to several resolutions, which they had directed him to report, when the house would be pleased to receive them.

Ordered, that the report be now made. Then Mr. Chief Justice in his place read the resolutions, and delivered them in at the table, which being again severally read by the clerk, were agreed unto by the house, and are as follows:

1st. Resolved, It is the opinion of this committee, that a committee be appointed to bring

bring in a bill to oblige the several inhabitants of this island, to provide themselves with a sufficient number of white men, white women or children, or pay certain sums of money in case they shall be deficient, and applying the same to several uses; to protect freeholders on the days of choosing church-wardens and vestry-men; and to ascertain who shall be deemed duly qualified to vote at such elections.

Ordered, That Mr. Chief-Justice, Mr. Redwood, and Mr. Taylor, be a committee to prepare and bring in the same.

2d. Resolved, It is the opinion of this committee, that a committee be appointed to bring in a bill, for laying a duty on all wines, rum and other spirituous liquors retailed within this island, and apply the same to several uses; and for laying a further tax on licences to be granted for the retailing of wine and other liquors.

Ordered that Mr. Attorney-General, Mr. Levingston, and Mr. Goulbourne, be a committee to prepare and bring in the same.

3d. Resolved, that it is the opinion of this committee that a committee be appointed to bring in a bill for raising several sums of money, and applying the same to several uses, for subsisting for one year the officers and soldiers of his majesty's 36th regiment of foot.

Ordered, That Mr. Long, Mr. Bourke, Mr. Provost, be a committee to prepare and bring

in the same. It is the opinion of Mr. Chief Justice according to order, presented

presented to the house a bill to oblige the several inhabitants of this island, to provide themselves with a sufficient number of white men, white women or children, or pay certain sums of men in case they shall be deficient, and applying the same to several uses; to protect freeholders on the days of choosing churchwardens and vestry-men; and to ascertain who shall be deemed duly qualified to vote at such elections, which was received and read.

And ordered to be read a second time to-morrow morning.

Mr. Attorney-General according to order, presented the house a bill for laying a duty on all wines, rum and other spirituous liquors retailed within this island, and applying the same to several uses; and for laying a further tax on licences to be granted for the retailing of wine and other liquors, which was received and read.

And ordered to be read a second time to-morrow morning.

Mr. Long according to order, presented to the house a bill for raising several sums of money, and applying the same to several uses, for subsisting for one year the officers and soldiers of his majesty's 36th regiment of foot, which was received and read.

And ordered to be read a second time to-morrow morning.

Jovis 20 Die Decembris, 1764.

THE messenger being called in and examined, informed the house that he had executed the warrants against Mr. Pierce Cooke and Laethlan McNeill, and that he had been served with two writs of habeas corpus, signed

by his excellency, as chancellor, to which he had made returns and had attended his excellency with the said Mr. Pierce Cooke and Lachlan M'Neil, and that his excellency as chancellor, had ordered him to bring them before him to-morrow morning at ten o'clock, when he ordered they should be heard by council, on the subject matter of their commitment.

Resolved, that Edward Bolt, Esq; Messenger of this house do keep the said Mr. Pierce Cooke and Lachlan M'Neil, in close custody.

Veneris 21 Die Decembris, 1764.

THE messenger being called in and examined, informed the house, that he had carried Mr. Pierce Cooke and Lachlan M'Neil before his excellency, agreeable to his order of yesterday; and after his excellency had heard council in a court of chancery on the cause of commitment, his excellency as chancellor, had discharged them from his custody.

Resolved, That this house will immediately resolve itself into a committee of the whole house.

Then the house according to order resolved itself into a committee of the whole house; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Chief-Justice from the committee reported they had come to some resolutions, of which they had directed him to make a report, when the house would be pleased to receive the same.

Ordered, that the report be now made.

Then Mr. Chief-Justice in his place, read the resolutions, and delivered them in at the table, and the first resolution being again read by the clerk, is as follows: 1st. Re-

1st. Resolved, That it is the opinion of this committee, that his excellency William Henry Lyttelton, Esq; in taking upon himself as chancellor to determine against the privileges of this house, and to discharge Pierce Cooke and Lachlen M'Neil, who were committed to the custody of the messenger of this house, for a contempt and breach of the privilege of this house, has acted in an unjustifiable manner, and has been guilty of a flagrant breach, contempt and violation of the privileges of this house, and the liberties of the people.

A debate arising, and the question being put, it passed in the affirmative, yeas 18, noes 4.

The 2d, 3d, and 4th resolutions being again severally read by the clerk, were agreed unto by the house, and are as follows :

2d. Resolved Nemine Contradicente, That it is the opinion of this committee, that this house cannot with any dignity to itself or justice to the people, proceed to any other business, under such a violent and unexampled breach of its privileges.

3d. Resolved nemine contradicente, That it is the opinion of this committee, that this house will not proceed to any other business until it shall be right in its privileges, and has received ample reparation for the indignity that has been offered to this house.

4th. Resolved nemine contradicente, That it is the opinion of this committee, that Mr. Pierce Cooke and Lachlan M'Neil, be severally taken into and kept close in the custody of the messenger of this house, for a contempt and breach of the privileges of this house,

and that Mr. Speaker do sign warrants for that purpose.

The 5th. resolution being again read by the clerk, is as follows;

5th. Resolved, That it is the opinion of this committee, that a committee be appointed to draw up an humble address to his majesty, most humbly representing, that the assemblies of this island have from the earliest establishment of civil government in this colony, enjoyed all the rights and privileges inherent in them as the representative body of the people; that among other rights and privileges derived to them, from the reason and nature of their election and constitution, and from the grace, grants and concessions of his majesty's royal predecessors, as well as from prescriptive right and custom, they have uninterruptedly enjoyed a privilege of freedom from arrests, both of persons and goods necessary for their accommodation, during their session, conformable to ancient usage and custom, except in cases of treason, felony, and breach of the peace, taxes or other monies due to his majesty, for the support of the government of this island: that without these privileges the intent of assembling for dispatch of the public business would be defeated, their attendance interrupted, their orders despised, and they themselves exposed to the most flagrant contempts and indignities, as being no more than the shadow of a body, having no power or authority whatsoever; and as they have enjoyed a con-

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tinued

tinued and uninterrupted exercise of the right and jurisdiction of committing their own members, as well as others, guilty of any breach of their privileges, so they esteem this right to be essential to their very being as a free assembly; that it is therefore a duty incumbent on us, to remonstrate to his majesty, that a writ of venditioni exponas, was lately executed upon the coach horses of one of our members during the sitting of the house, and that upon complaint made to the house, the persons concerned in injurious breach of our privileges, were committed into the custody of our messenger, that the persons so taken into custody, applied to, and obtained from his excellency William Henry Lyttelton, Esq; as chancellor, writs of habeas corpus; and his excellency in chancery, having heard the arguments of council at law, against the cause of the commitment, did take upon himself, in a most unprecedented manner, to determine against our privileges, to pronounce the commitment by the speaker's warrant illegal, and to order the parties to be discharged out of custody of our messenger, and that as nothing can so effectually contribute to render a people prosperous and happy, as a just conservation and support of their ancient and fundamental rights, franchises, jurisdiction and privileges; and as we are fully persuaded that the happiness and welfare of his subjects are the chief objects of his majesty's care and attention, most humbly to beseech his majesty, that he will be graciously pleased to interpose his royal authority, and by restraining his excellency's arbitrary exercise of power as chancellor, protect us from such open and manifest

violations, destructive of our rights, and sub-
 verlive of our constitution, and most earnestly
 to implore his majesty in his royal goodness to
 grant us such other redress as to his majesty
 in his wisdom shall seem meet.

A debate arising, and the question being put,
 it passed in the affirmative yeas 19, noes 3.

Ordered, That Mr. Long, Mr. Bourke,
 Mr. Price, Mr. Dowell, and Mr. Edwardes be
 a committee to prepare and bring in the same.

Ordered, That the 1st, 2d, 3d and 4th of
 the above resolutions be printed in the public
 news papers.

N. B. *Early next morning the house was pro-
 rogued by proclamation and some time after dissolved.*

A Copy of the speaker's warrant, by which
 Mr. PIERCE COOKE was taken into the
 custody of the messenger of the assembly, and
 also a copy of the decree of his excellency the
 chancellor, by which he was released, and
 discharged, from the custody of the messenger.

Jamaica, ff. Mercurii, 19th die Dec. 1764.

Whereas Mr. PIERCE COOKE was in cus-
 tody the last session of assembly for a breach
 of the privileges of the house in assisting Richard
 Thomas Wilson in executing a writ of ven-
 ditioni exponas on the coach horses of JOHN
 OLYPHANT, Esq; a member of the house.

These are therefore to will and require you
 to take into your custody the body of PIERCE
 COOKE, and him safely keep until he shall be
 discharged *by order of the house*, and for your so
 doing this shall be your warrant. Given under
 my hand and seal the day and year above written.

Charles Price, Junior, Speaker. O
 To Edward Bolt, Esq;
 Messenger of the Assembly.

At a high court of chancery held at the town of St. Jago de la Vega, on Friday the 21st day of December, 1765.

Rex

v

Cooke

The body of PIERCE COOKE, Gentleman, being this day brought into court before *His excellency the chancellor*, by EDWARD BOLT, Esq; pursuant to the order of this honourable court made yesterday, upon the return of the writ of habeas corpus, issued under the seal of this court, tested the 20th day of December instant, directed to the said EDWARD BOLT returnable before *his excellency the chancellor* immediate; and upon hearing of what was alledged by council *on behalf of the said PIERCE COOKE* on the said return *his excellency the chancellor* was pleased to declare; that it did not appear to him *from the words of any act of parliament or of any act of the governor, council and assembly of this island, or of his majesty's commissions or INSTRUCTIONS to his excellency as governor of this island, or by any other means whatsoever.* That the commitment of the said PIERCE COOKE into the custody of the said EDWARD BOLT IS LEGAL. And *his excellency the chancellor* was therefore pleased to order, adjudge and decree, and it is hereby ordered, adjudged and decreed, that the said PIERCE COOKE BE, BY THE AUTHORITY OF THIS COURT, released and discharged from the custody of the said EDWARD BOLT.

Vera copia extur

Geo. Ramsay Reg. Cur. Can.

A
L I S T
OF THE
M I N O R I T Y
IN THE
HOUSE of COMMONS,
Who VOTED against the
B I L L
To Repeal the
AMERICAN STAMP ACT.

A P A R I S,
Chez. J. W. Imprimeur, Rue du Colombier Faux-
bourg St. Germain, à l'Hotel de Saxe. 1766.

Prix, douze Sous.

Avec Approbation, & Privilège.

Veneris, 21^o Die Februarii, 1766.

Question,

THAT it is the opinion of this Committee, that the House be moved, that leave be given to bring in a Bill to Repeal An Act passed in the last Session of Parliament, entituled, *An Act for granting and applying certain stamp duties, and other duties in the British Colonies and Plantations in America, towards further defraying the expences of defending, protecting, and securing the same, and for amending such parts of the several acts of parliament relating to the Trade and Revenues of the said Colonies and Plantations, as direct the manner of Determining and Recovering the Penalties and Forfeitures therein mentioned.*

It was afterwards proposed, to leave out the word *Repeal*, and insert *Explain and amend*.

The Question was put, Whether the word *Repeal* should remain.

Ayes	————	275
Noes	————	167

Teller for the Ayes, Mr. Tho. Townshend, jun.
For the Noes, Mr. Rigby.

Then the main Question was put, and agreed to.

A LIST of the MINORITY.

J. ABERCROMBIE , Esq; <i>a major general and colonel of the 44th regiment of foot</i> Clackmannanshire		
Edward Bacon	Esq;	Norwich
William Baggott	Esq;	Staffordshire
Sir Richard Warwick Bamfylde	Bart.	Devonshire
Lord Barrington	<i>secretary at war</i>	Plymouth
Lord Bateman	<i>master of the buckhounds</i>	Woodstock
Lord Robert Bertie	<i>a lord of the King's bed-chamber, a lieutenant general, governor of Cork, and colonel of the 7th regiment of foot</i>	Boston
Lord Brownlow Bertie		Lincolnshire
Peregrine Bertie	Esq;	Westbury
William Blackstone	Esq; <i>solicitor general to the Queen</i>	Hindon
Sir Walter Blackett	Bart.	Newcastle-upon-Tyne
Richard Wilbraham Bootle	Esq;	Chester
Thomas Brand	Esq;	Gatton
William Bromley	Esq;	Warwickshire
Hon. Robert Brudenel	Esq; <i>a groom of the bed-chamber to the duke of York, and colonel of the fourth regiment of foot, and, lately made, vice chamberlain to the Queen</i>	Marlborough
Sir Thomas Charles Bunbury	Bart.	Suffolk
Sir Robert Burdett	Bart.	Tamworth
Hon. John Burgoyne	Esq; <i>colonel of the 16th regiment of dragoons</i>	Midhurst
William Matt. Burt	Esq;	Marlow
Hon. Charles Sloane Cadogan	Esq; <i>surveyor of his Majesty's waters, and treasurer to the duke of York</i>	Cambridge town
Right Hon. Lord Frederick Campbell		Glasgow, Renfrew, &c.
James Campbell	Esq; <i>governor of Stirling castle</i>	Stirlingshire
Marquis of Carnarvon		Radnorshire
Lord Carysfort		Huntingdonshire
Timothy Caswell	Esq;	Hertford
Earl of Catherlough		Grimby
		Richard

Richard Clive, Esq;	_____	Montgomery
James Edward Colleton, Esq;	_____	Lestwithiel
Sir John Hynd Cotton	_____	Cambridgeshire
James Coutts, Esq;	_____	Edinburgh city
Tho. Coventry, Esq; <i>a director of the South Sea Company</i>	_____	Bridport
Patrick Crauford, Esq;	_____	Renfrewshire
Atheton Cuzson, Esq;	_____	Clitheroe
Sir Hew Dalrymple, Bart.	_____	Dunbar, &c.
Sir James Dashwood, Bart.	_____	Oxfordshire
Sir John Hussey Delaval, Bart.	_____	Berwick
John Dickson, Esq;	_____	Peebleshire
Sir James Douglass, <i>admiral of the White</i>	_____	Orkney, &c.
Archibald Douglass, Esq; <i>a lieutenant general, and col. of the 13th regiment of dragoons</i>	_____	Dumfriesshire
William Drake, Esq;	_____	Amersham
Thomas Erle Drax, Esq;	_____	Wareham
Sir Lawrence Dundas, Bart.	_____	Newcastle-under-line
Thomas Dundas, Esq;	_____	Richmond
Thomas De Grey, Esq;	_____	Norfolk
Jeremiah Dyson, Esq; <i>one of the Lords of trade</i>	_____	Yarmouth, Hants
John Eames, Esq; <i>one of the masters in Chancery</i>	_____	Yarmouth, Hants
Archibald Edmonstone, Esq;	_____	Dumbartonshire
Right Hon. Gilbert Elliot, Esq; <i>treasurer of the chamber</i>	_____	Roxburghshire
Right Hon. Welbore Ellis	_____	Aylesbury
Simon Fanshawe, Esq; <i>a comptroller of the board of green cloth</i>	_____	Grampound
Sir Charles Farnaby, Bart.	_____	East Grinstead
Earl of Farnham	_____	Taunton
Thomas Foley, Esq;	_____	Droitwich
Alexander Forrester, Esq;	_____	Oakhampton
Colonel Frazer	_____	Invernesshire
Lord Garlies	_____	Morpeth
Bamber Gascoigne, Esq;	_____	Midhurst
Thomas Gilbert, Esq; <i>comptroller of the King's wardrobe</i>	_____	Newcastle-under-line
Sir John Glynne, Bart.	_____	Flint town
Lord Adam Gordon, <i>col. of 66th reg. of foot</i>	_____	Aberdeenshire

The Marquis of Granby, <i>master of the ordnance, and col. of the royal reg. of horse guards blue</i>		Cambridgeshire
Sir Alexander Grant, Bart.	_____	Fortrose, &c.
Charles Gray, Esq;	_____	Colchester
David Græme, Esq; <i>secretary to the Queen, a major general, and colonel of the 49th regiment of foot</i>	_____	Perthshire
Right Hon. George Grenville, Esq;	Buckingham town	
Thomas Grosvenor, Esq;	_____	Chester
Howell Gwynne, Esq;	_____	Old Sarum
John Hamilton, Esq; <i>master of the King's works in Scotland</i>	_____	Wigtown, &c.
William Gerrard Hamilton, Esq; <i>Chancellor of the Exchequer in Ireland</i>	_____	Pontefract
Hon. Thomas Harley, Esq;	_____	London
Sir Henry Harpur, Bart.	_____	Derbyshire
James Harris, Esq;	_____	Christchurch
Eliab Harvey, Esq; <i>King's counsel</i>	_____	Dunwich
Edward Harvey, Esq; <i>a major general, colonel of the 3d regiment of light horse, and adjutant general in North America</i>	_____	Gatton
George Hay, L. L. D. <i>dean of the arches court, and judge of the prerogative court of Canterbury</i>		Sandwich
Edward Herbert, Esq;	_____	Ludlow
Lord Hinchinbrooke	_____	Brackley
Hon. George Hobart, Esq;	_____	Beeralston
Francis Holbourne, Esq; <i>vice admiral of the red</i>	_____	Dumfaring, &c.
Rowland Holt, Esq;	_____	Suffolk
Jacob Houblon, Esq;	_____	Hertfordshire
Hon. Thomas Howard, Esq;	_____	Castle Rising
Thomas Orby Hunter, Esq;	_____	Winchelsea
Charles Jenkinson, Esq; <i>auditor of accompts to the Princess Dowager of Wales</i>		Cockermouth
John Jolliffe, Esq;	_____	Petersfield
Robert Jones, Esq;	_____	Huntingdon
Anthony James Keck, Esq;		Leicester
Edward Kynaston, Esq;	_____	Montgomeryshire
Peter Legh, Esq;	_____	Ilchester
Marquis of Lorne, <i>a lieut. general, and col. of the first regiment of foot</i>	_____	Dover
		Richard

Richard Lowndes, Esq;	—	Buckinghamshire
Sir James Lowther, Bart.	—	Cumberland
Sir Herbert Lloyd, Bart.	—	Cardigan town
Simon Luttrell, Esq;	—	Wigan
William Lynch, Esq;	—	Weobly
John Rofs Mackye, Esq; <i>paymaster of the ordnance</i>	—	Kircudbright
Alex. Mackay, Esq; <i>col. of the 65th regiment of foot</i>	—	Sutherlandshire
Right Hon. James Stuart Mackenzie, Esq;	—	Rossshire
Lord Robert Manners, <i>col. of the 3d regiment of dragoons, and lieutenant governor of Hull</i>	—	Kingston upon Hull
John Manners, Esq; <i>House-keeper at Whitehall</i>	—	Newark
Samuel Martin, Esq; <i>treasurer to the Princess Dowager of Wales</i>	—	Camelford
Paul Methuen, Esq;	—	Warwick
Right Hon. Thomas Millar, Esq;	—	
<i>Lord Advocate for Scotland</i>	—	Anan Sanquhair, &c.
Thomas Moore Molyneux, Esq; <i>a captain in the 3d regiment of foot guards</i>	—	Haslemere
Hon. Archibald Montgomery, Esq; <i>equerry to the Queen, governor of Dumbarton castle, and deputy ranger of St. James's and Hyde Parks</i>	—	Airshire
Sir John Mordaunt, <i>a general of his Majesty's forces, colonel of the 10th regiment of dragoons, and governor of Sheerness</i>	—	Cockermouth
Sir Charles Mordaunt, Bart.	—	Warwickshire
John Morton, Esq; <i>chief justice of Chester</i>	—	Abingdon
John Mostyn, Esq; <i>groom of the bedchamber to the King, colonel of the first regiment of dragoon guards, and a lieutenant general</i>	—	Malton
Lord Mountstuart	—	Bossiney
Richard Neville Neville, Esq;	—	Tavistock
Sir Roger Newdigate, Bart	—	Oxford University
Lord North	—	Banbury
Sir Fletcher Norton	—	Wigan
Right Hon. Robert Nugent, Esq;	—	Bristol
Edmund Nugent, Esq; <i>groom of the bedchamber to the King, and captain in first regiment of foot guards</i>	—	St. Maws Robert

Robert Henley Ongley, Esq;	—	Bedfordshire
Lord Orwell	—	Ipswich
Right Hon. James Oswald, Esq; <i>joint vice-treasurer of Ireland</i>	—	Kinghorn, &c.
Earl of Panmure, <i>a lieut. general, and colonel of 21st regiment of foot</i>	—	Forfarshire
Armistead Parker, Esq;	— —	Peterborough
Thomas Pitt, Esq;	—	Old Sarum
Sir George Pococke, <i>admiral of the Blue</i>	—	Plymouth
George Prescott, Esq;	—	Stockbridge
George Rice, Esq; <i>a lord of trade</i>	—	Cardmarthenshire
John Robinson, Esq;	—	Westmoreland
John Lockhart Ross, <i>a captain in the royal navy</i>	—	Peeblesshire
Lord George Sackville, <i>joint vice-treasurer of Ireland</i>	— —	Hythe
Hon. Henry Saint John, <i>groom of the bed-chamber to the D. of York, and a lieut. col.</i>	—	Wotton Bassett
Sir John Sebright, Bart. <i>a major general, and col. of the 18th reg. of foot</i>	—	Bath
Henry Seymour, Esq; <i>groom of the bed-chamber to the King</i>	—	Totness
Fane William Sharpe, Esq;	—	Callington
Jennison Shaftoe, Esq;	—	Leominster
Henry Shiffner, Esq;	—	Minehead
James Shuttleworth, Esq;	—	Lancashire
Coningsby Sibthorpe, Esq;	—	Lincoln
Lord Charles Spencer, <i>verdurier of Whichwood Forest</i>	— —	Oxfordshire
Right Hon. Hans Stanley, Esq; <i>governor of the Isle of Wight</i>	—	Southampton
Sir Thomas Stapleton, Bart.	—	Oxford city
John Stevenson, Esq; <i>a director of the East India Company</i>	—	St. Michael
Sir Simeon Stuart, Bart. <i>a chamberlain of the Exchequer</i>	— —	Hampshire
Lord Strange, <i>Chancellor of the duchy of Lancaster</i>	— —	Lancashire
Lord George Sutton	—	Grantham
Marquis of Tavistock	—	Bedfordshire
Earl of Thomond	—	Minehead
Thomas Thoroton, Esq; <i>secretary to the master of the ordnance</i>	—	Newark
John Pugh Pryse, Esq;	—	Cardiganhire
		Edward

Edward Thurlowe, Esq;	<i>King's counsel</i>	Tamworth
Hon. Henry Fred. Thynne	—	Weobly
Sir John Turner, Bart.	—	King's Lynn
Sir Charles Kemys Tynte	—	Somerſetſhire
Arthur Vanſittart, Esq;	—	Berkſhire
Richard Vernon, Esq;	—	Bedford
John Upton, Esq;	—	Westmoreland
Charles Walcott, Esq;	Weymouth & Melcomb	
Robert Waller, Esq;	Chipping Wycomb	
John Rolle Walter, Esq;	—	Exeter
Henry Wauchope, Esq;	<i>deputy privy</i>	
<i>purſe to his Maſteſty</i>	—	Bute & Caithneſs
Hon. John Ward, Esq;	—	Worceſterſhire
Lord Warkworth,	<i>aid de camp to the King</i>	Westminſter
Philip Carteret Webb, Esq;		Haſlemere
Alexander Wedderburn,	<i>King's counsel</i>	Rotheſay, &c.
Thomas Whately, Esq;	—	Luggerſhall
Hon. Thomas Willoughby, Esq;		Nottinghamſhire
Sir Armine Wodehouſe, Bart.		Norfolk
Robert Wood, Esq;	—	Brackley
167 Thomas Worſley, Esq;	<i>ſurveyor of</i>	
<i>the board of works</i>	—	Orford
168 Right Hon. Richard Rigby, Esq;	<i>Teller</i>	Taviſtock

F I N I S.

